

Meeting	Authority Meeting
Date	22 January 2021
Location	Video Conference
Title of Paper	Policing Response to EU Exit
Presented By	DCC Will Kerr, Local Policing
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to provide the Board with an update on the contingency planning undertaken across Police Scotland in preparation for the United Kingdom's departure from the European Union on the 31st December 2020.

Members are invited to discuss the content of this paper.

1. BACKGROUND

- 1.1 On the 29th March 2017, The United Kingdom submitted notification, to the twenty seven member states of the European Union (EU27), of its intention to withdraw from the European Union (EU) in accordance with Article 50 of the Treaty on the Union.
- 1.2 On the 31st January 2020, a transitional period commenced to facilitate negotiations on the nature of the departure and the cessation of all EU primary and secondary legislation being applicable within the UK. The transitional period concluded on the 31st December 2020.
- 1.3 Periods of intense negotiations have taken place between UK and EU officials over the past 12 months. These negotiations have made limited progress with a number of key areas being identified as a sticking point and contingency planning continued on the basis of no trade deal being achieved. However following final intense negotiations a trade deal was agreed and ratified on 24th December 2020.

2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 Police Scotland have continued to make organisational preparations for the end of the transitional period, whilst co-ordinating arrangements on behalf of the wider Resilience Partnership with planning based on the UK Government 'reasonable worst case scenario' (RWCS) planning assumptions.
- 2.2 Police Scotland have maintained a comprehensive organisational 'Risk Assessment' in relation to EU Exit and it has been reviewed regularly.
- 2.3 As the Reasonable Worst Case Scenario of a 'No Deal' Brexit met both the definition of an Emergency under the Civil Contingencies legislation and a Major Incident, there was a requirement for Police Scotland to implement major incident arrangements supported by a national command structure.
- 2.4 As noted within the Police Scotland EU Exit Risk Assessment, 'Concurrency' was identified as a significant risk. This has undoubtedly become even more apparent as a consequence of the worldwide pandemic COVID-19.
- 2.5 In response to the risks presented by 'concurrency' an 'all-risks' approach to the management of concurrent events has been

adopted across the wider resilience partnership for the winter 2020/2021 period.

- 2.6 This has led to the establishment of an all-risks approach to the co-ordination of a multi-agency response to concurrent risks. Consequently the Brexit Co-ordination Centre has become the National All-Risks Co-ordination Centre (NCC), managing the response to EU-Exit, COVID-19 and any other civil emergency that may occur.
- 2.7 The National Co-ordination Centre commenced following its 'soft launch' on 7th December 2020 for preparatory work, familiarisation and a programme of testing and exercising. Becoming fully operational on 28th December 2020.
- 2.8 Early activity has focussed on:
- Monitoring and co-ordinating partnership approaches to managing the implications of COVID-19 and maintaining situational awareness.
 - Co-ordination and support to the COVID-19 mass vaccination programme;
 - Monitoring the implications of EU-Exit following the implementation of the deal agreed between the UK and EU most notably re Border and maritime implications;
 - Assessing the implications of Avian Influenza to ensure a co-ordinated partnership approach;
 - Monitoring the impact of severe weather across Scotland;
 - Maintaining cross agency situational awareness of all risks in support of the Scottish Resilience Partnership
- 2.9 This activity has been in support of the now active Scottish Government Resilience Room (SGoRR), which was activated primarily in response to EU Exit and the activation of the UK Government COBR (Cabinet Office Briefing Rooms).
- 2.10 Police Scotland have retained the force's Flexible Response Unit to provide a nationally deployable asset, capable of responding to challenges at short notice. The future of this asset will be subject to review subject to the conclusion of the D20 period on the 31st March 2021.
- 2.11 On 31 December 2020, Police Scotland lost access to a number of EU Justice and Home Affairs measures – or Law Enforcement and National Security (LENS) tools. In preparation, officers have been working with the Home Office, UK law enforcement and other

partners to identify and develop a range of contingency options that will replace the EU measures we currently utilise.

- 2.12 The Police Scotland International Bureau has prepared a package of support to officers that has been put in place to assist in identifying the measures that have been retained and the alternative process where any measure has been amended or removed.
- 2.13 Following the announcement on 24 December 2020 of a Negotiated Outcome, the Brexit Delivery Team have reviewed the Law Enforcement and Judicial Cooperation in Criminal Matters Articles and below is a synopsis of the chapters. The agreement has notable wins on Data Protection, Extradition, access to Europol and Eurojust and direct bi-lateral engagement with EU Member States (EUMS). The loss of SIS II creates an obvious gap, however this is mitigated by increased use of Interpol notices and diffusions and the potential future utilisation of the International Law Enforcement Alert Platform (ILEAP).
- 2.14 The scope of the agreement is to provide for law enforcement and judicial cooperation between EUMS and the UK in relation to the prevention, detection, investigation and prosecution of criminal offences and the fight against money laundering and terrorism. The agreement is based on a shared and longstanding respect for democracy, the rule of law and fundamental rights. There is also a general provision concerning data protection and that all data must be used, stored and disclosed in accordance with the UK's legislative and regulatory regime.
- 2.15 The undernoted paragraphs highlight the most notable changes and impacts for Police Scotland:

New Arrangements:

- **Extradition** – A new fast track arrangement that retains the majority of features of the European Arrest Warrant (EAW), including mandated time limits for surrender and the immediate power of arrest. This new system (often referred to as a Norway Iceland arrangement) will operate from 1st January 2021, EAWs issued before this time will still be valid in the UK and EUMS.
- **Mutual Legal Assistance** – A new streamlined agreement that retains the features of the European Investigation Order (EIO), including mandated timescales and standardisation. EIOs issued before 1st January 2020 will still be valid.

- **Asset Freezing and Confiscation** – A new agreement to enable continued judicial cooperation through mutual recognition, set timescales and standardisation.

Retain capability under new provisions:

- **Europol** – A comprehensive 3rd party agreement that will allow us to retain the vast majority of our current capability. We will lose considerable influence on the future direction and priorities of the organisation, but retaining access as a 3rd party allows the UK to maintain a Liaison Bureau.
- **Eurojust** – A 3rd party agreement that will allow continued multilateral cooperation with Prosecutors, facilitating access to Joint Investigation Teams (JITs), when invited to join, and facilitating other forms of judicial cooperation.
- **Passenger Name Records** – Continued flow of data from airlines to the UK.
- **Prüm** – We will retain the ability for reciprocal, automated searching of EU Police systems relating to DNA, Fingerprints and in the future VRM data.
- **Criminal Records** – We will retain the facility to exchange Criminal Records through the ECRIS system.

Loss of access:

- **Law Enforcement Alerts** – The EU insisted that there was no legal basis for the UK to maintain access to the SIS II system. We will be rely on EUMS making better use of the Interpol system to share their circulations with the UK. Engagement has taken place with all EUMS to highlight this requirement.

2.16 The frameworks and systems access prior to the UKs exit from the EU provided effective and efficient processes, providing an optimal and preferred operating model for both the UK and EU Member States. The negotiated outcome has resulted, in some cases, in complete loss of access or introduced new regulations for procedures and the exchange of information and intelligence. Police Scotland are still in the early stages of adapting to and evaluating these new processes, but it is clear that they will be restrictive, bureaucratic and ultimately sub-optimal to the landscape we previously experienced.

2.17 The Home Office has initiated a project to potentially fill some of the gaps left by SIS II, Police Scotland are represented on this programme board. The intention of the programme is to make bilateral agreements to share alert information.

2.18 Police Scotland continues to be represented on national fora which have been established to implement the processes and procedures required to maintain service delivery in the international policing arena.

3. FINANCIAL IMPLICATIONS

3.1 The officers used for the Force Reserve are all included within the overall Police Scotland budgeted establishment.

3.2 Police Scotland will also resource the National Co-ordination Centre, comprising 24 members of staff/officers. These officers/staff will also come from within the budgeted establishment.

3.3 All costs directly associated with EU Exit are being captured on a weekly basis.

4. PERSONNEL IMPLICATIONS

4.1 The Flexible Response Unit comprises 225 posts.

4.2 The National Co-ordination Centre comprises 24 posts.

4.3 The Brexit Contingency Team comprises 5 posts.

5. LEGAL IMPLICATIONS

5.1 The Reasonable Worst Case Scenario of a 'No Deal' EU Exit meets both the definition of an 'Emergency' under Civil Contingencies legislation and a 'Major Incident', and as such there is a requirement for Police Scotland to implement major incident arrangements supported by a national command structures.

6. REPUTATIONAL IMPLICATIONS

6.1 Any reputational implications have been considered and plans to mitigate any potential reputational risk are being compiled to reduce this risk.

7. SOCIAL IMPLICATIONS

- 7.1 EU Exit is a highly contentious subject and the Brexit Contingency Planning Team are fully aware of the potential civil unrest. Police Scotland's Intelligence officers continue to assess relevant information and intelligence to ensure Police Scotland can appropriately prepare and respond to any potential protests.

8. COMMUNITY IMPACT

- 8.1 Police Scotland continues to monitor any community impact of EU Exit to ensure the needs of our communities across Scotland are understood and responded to appropriately. The number of incidents remains at a constant with no issues directly related to Brexit being identified.

9. EQUALITIES IMPLICATIONS

- 9.1 Under the process of Equality Impact Assessment, any identified inequalities will be assessed.

10. ENVIRONMENT IMPLICATIONS

- 10.1 There are no environmental implications currently identified.

RECOMMENDATIONS

Members are invited to discuss the content of this report.