

UKELA Brexit Workshop – Northern Ireland, 23rd May 2017

A UKELA workshop on the impact of Brexit on Northern Ireland took place in the offices of Cleaver Fulton Rankin on the 23rd May 2017. Participants included members from the Department of Agriculture, Environment and Rural Affairs; Cleaver Fulton Rankin; the Planning Appeals Commission; Arc 21 and Queen's University.

The workshop began with a presentation from Andrew Bryce, Co-chair of UKELA's Brexit Task Force. Andrew spoke about UKELA's position on Brexit and the work currently being undertaken by UKELA's Brexit Task Force. Andrew said that the main focus for the Task Force were the issues likely to arise out of the Great Repeal Bill. Andrew also spoke about the research being undertaken by a number of working parties who were considering the impact of the Great Repeal Bill on waste, climate change and water (amongst others). Consideration was also being given to the Conventions and Protocols which would continue to take effect post Brexit.

Discussion ensued on the emerging issues in the United Kingdom and whether (and how) these issues would apply to Northern Ireland. The following concerns were identified:

- **Enforcement:** The European Commission is a key player in the current enforcement of environmental legislation. The Commission shares information, monitors progress and reports on member state compliance. It can bring infraction proceedings against governments that fail to comply with their obligations. The possibility of being on the receiving end of infraction proceedings provides a major incentive to comply with EU-derived environmental law. As the host of one of the biggest illegal landfill sites in Europe this issue is pertinent to Northern Ireland.

Post Brexit could the Planning Appeals Commission, a fully independent body, takeover the Commission's supervisory role in Northern Ireland?

- **Political Accountability:** There is not an overriding obligation on EU member states to report to the European Commission on compliance with EU environmental law. However, individual Directives and Conventions, for example the Aarhus Convention, often include requirements to report. Reporting increases transparency and the accountability of member states.

Post Brexit should there be a requirement to report to the Northern Ireland Assembly or Parliament?

- **Need for Certainty:** EU regulation plays an essential role in the UK domestic framework. EU standards help companies in sectors such as energy, manufacturing, transport, distribution and logistics to practically implement some areas of this regulation. UK Industry needs to know whether these standards will continue to apply. One solution may be for an 'environmental standards commission' to be established to act as a forum for detailed consultation with the government, regulators and industry to address the divergence of standards across the UK.

Post Brexit what should be the approach to setting future and revising current standards?

- **Cross Border:** There are already legislative measures in place for cross-border co-operation, for example, in respect of the movement of waste and cross-border sites. There is a need to retain common standards for cross-border sites in order to regulate them meaningfully. This is an argument for keeping pace with standards at EU level. Should this not happen protocols or special legislation will need to be put in place.

Post Brexit what approach should be taken?

It is too early at this stage to know what Brexit will or will not include. If the outcome of the negotiations is that the UK is required to continue to comply with some EU environmental legislation, then it may be required to report on this to the Commission and to retain certain standards. The workshop identified that should the outcome of negotiations be a 'hard Brexit' there is a very real risk that environmental law will operate in a vacuum in terms of enforcement, reporting and standards unless the government addresses these issues and implements a new regime.

Note prepared by Kate McCusker, Cleaver Fulton Rankin