

“Free us”: the DUP’s Northern Ireland Protocol strategy

Following weeks of disrupted trade flows, rejected calls to invoke Article 16, security concerns for officials conducting checks required at ports, and a European Commission [misjudgement](#) which would have seen Article 16 invoked, enough has been enough for Northern Ireland’s Democratic Unionist Party (DUP).

In a [statement](#) issued by the Democratic Unionist Party (DUP) on 2nd February 2021, a strategy was outlined with the aim of setting Northern Ireland “free” from the Withdrawal Agreement’s [Protocol on Ireland/Northern Ireland](#).

The five-point plan includes disrupting engagement in North-South dialogue on matters relating to the Protocol, opposing Protocol-related bills, laws and other measures in Westminster and the Northern Ireland Assembly, and launching an e-petition to demonstrate the “strength of feeling” citizens have in relation to the Protocol.

While the primary aim is to prompt the UK Government to act to address the issues that have arisen in Northern Ireland as a result of Protocol, particularly in relation to trade, the Irish Government is also encouraged to become involved or to risk North-South interaction being impacted.

In order to understand the rationale behind the strategy, it is necessary to reflect on [the Brexit process](#) and, in particular, the role of the DUP in this.

The plan that would have ensured that there was no distinction between Northern Ireland and Great Britain was opposed by the DUP. The party actively engaged in steps to [prevent](#) Theresa May’s deal from passing and to bring about her eventual downfall as leader of the Conservative Party. It bolstered a [relationship](#) with Boris Johnson, supported his efforts to become Conservative Party Leader and placed so much faith in the strength of its hand within the Confidence and Supply arrangement between the two parties that what many saw as the only inevitable outcome eventually [blindsided](#) its leadership.

The DUP, in asserting its interests so forcefully with May to the point of straitjacketing her in her [attempts](#) to conclude a withdrawal deal with the EU, established the party both as a force to be reckoned with in Downing Street, and as a burden that would hinder Johnson’s plans if not offloaded when he became Prime Minister.

With the [2019 General Election](#) removing all necessity for formal ties with the DUP, a deal was agreed and passed that was the antithesis of what the DUP had hoped to achieve. Johnson’s ambitions for Brexit took priority over the working relationship between the Conservative Party and the DUP. Where once the DUP held influence in the Brexit process, by the end this was far from the case, and the result was a very different Brexit to the one the party had campaigned for.

The DUP, having been complicit in creating the conditions that gave rise to the present situation, is now having to do the political equivalent of fighting the fires it stoked. The five-point plan that has been announced is, in effect, the party’s strategy of how it intends to do this.



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The plan advances beyond mere opposition to the Protocol and signals a move to actively working against its effective implementation. In adopting an approach that seeks to undermine the Protocol in this way, such efforts consequently also undermine aspects of the Belfast/Good Friday Agreement in light of Article 1 of the Protocol. From the DUP's perspective, however, the UK Government's insistence against invoking Article 16 is itself contrary to the principle of parity of esteem given, as highlighted in the statement, that there is no unionist support for the Protocol in Northern Ireland.

Already, the basis for legitimising the strategy is in place. In addition to this, there are a number of other key factors which together present a case for why such a strategy has been deemed necessary.

Firstly, the [news](#) that the European Commission was planning to use Article 16 as a basis to prevent the movement of vaccines from the Republic of Ireland into Northern Ireland has added a sense of urgency to the DUP's effort. After weeks of calls for the [UK](#) to invoke Article 16 being rejected on the basis that it was too soon, unnecessary and that it would be in bad faith, for intent with any level of seriousness to use it to have emerged from the EU landed as a double blow in this wider context. The furore this caused was not entirely misplaced – on a political level, it was an own goal for the EU, [accidental](#) or otherwise, and the credibility of the EU as a broker in the Protocol has been shaken in Northern Ireland as a result.

Secondly, the problems with the Protocol were described by the Prime Minister as '[teething problems](#)' – in other words, issues that would eventually sort themselves out. By couching the very real challenges being encountered in terms of being inconvenient but not so much as to be concerning, the Prime Minister did [little](#) to instil any sense of confidence that the matter was being treated seriously.

Finally, the publication of the strategy comes in the same week that officials conducting the checks required by the Protocol at ports in Belfast and Larne have been advised not to attend work due to concerns for their [safety](#). The formal action of carrying out these checks serves as a real example of a regulatory border being in place between Northern Ireland and Great Britain, which those generating the security concerns are deeply opposed to. One way this has been demonstrated has been through numerous examples of [graffiti](#) which have appeared near both places with threatening messages directed at staff.

[Tweeting](#) in response to the publication of the DUP's plans, Johnson did not go as far as supporting the idea of invoking Article 16 as the DUP wants, but common ground was established in outlining the need for action in order to address the problems the Protocol has given rise to in Northern Ireland. The EU was also positioned as being at fault for contributing to present concerns.

But put simply, it is not in the interests of the current UK Government to be seen to use Article 16, not least given the positive affirmations that abounded about what post-Brexit life would look like for the UK. Finding a way to work through the issues is the only route that is politically realistic for Johnson to pursue, albeit that it now looks as though the groundwork may be being laid in preparation for the [contrary](#) to happen.

The real and on-going challenge for all leaders in Northern Ireland lies in convincing the UK Government about the issues arising and how severe they are. So far, these calls appear to have fallen on largely disinterested ears, or ears which are not attuned to the lived experiences of what is happening on the ground in Northern Ireland since the Protocol came into force. Plans for how to work through the issues of the Protocol can only start to form when the full extent and impact of these challenges are recognised. Until Johnson's Twitter reaction to the DUP's proposals, there was little to assert any level of confidence that this was the case.

Such a reaction from the Prime Minister shows a recognition that the DUP's strategy is not merely a publicity stunt to draw attention to the problems. The vehement opposition the party has shown towards the Protocol from the outset is itself an indicator of genuine intent behind the plans.

Looking at the bigger picture, these are steps are being taken by a party which has nothing left to lose and everything to gain. Backed into a corner of its own making, the party is unable to be seen to be working to mitigate the challenges of the Protocol without being branded as having made a U-turn in terms of support for its implementation. Political [competition](#) within Northern Ireland ahead of the 2022 Assembly election only further reinforces the dangers of this.

The most obvious route for the party to try and absolve itself of the blame for its role in the Protocol's existence is through a process of being seen to fight to bring about change and by establishing those parties seeking to smooth the operation of the Protocol – whether or not they agree with its existence in principle – as working against the union, unionism and the best interests of people in Northern Ireland.

There is nothing noble in keeping a promise to lock the stable door when the horse has long-since bolted, but it is still possible to ultimately keep that promise without making a bad situation any worse. Notably absent from the strategy is an outline of what arrangements are intended to replace the Protocol; without this level of clarity from the outset, efforts to undermine the Protocol have just as much chance of incurring detrimental consequences for people and businesses in Northern Ireland as they do of bringing about the changes the strategy aspires towards.

It also sets the stage for the 2022 Assembly election to become centred on the Protocol in anticipation of the vote that will be held in 2024 on the continuation of Articles 5-10. Neither is mentioned in the strategy but it is hard to see how these would not have featured in DUP thinking. The option of collapsing the institutions has surely also been considered in forming this plan.

All of this further adds to uncertainty at a time where clarity and political unity in purpose is needed most. This alone bears the potential to cause significant damage in the longer term. With an election fast approaching and while it may be the only option open to the DUP, this strategy is a risky move not only for the party but in terms of the impact it could have on politics as we know it in Northern Ireland.

This article gives the views of the authors, and not the position of LSE Brexit, nor of the London School of Economics.