



Northern Ireland  
Assembly

Public Accounts Committee

# OFFICIAL REPORT (Hansard)

Inquiry into Public Procurement  
in Northern Ireland:  
Department of Finance

16 May 2024

# NORTHERN IRELAND ASSEMBLY

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Inquiry into Public Procurement in Northern Ireland: Department of Finance

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**Members present for all or part of the proceedings:**

Mr Daniel McCrossan (Chairperson)  
Ms Cheryl Brownlee (Deputy Chairperson)  
Mr Cathal Boylan  
Mr Tom Buchanan  
Mr Pádraig Delargy  
Ms Diane Forsythe  
Mr Colm Gildernew  
Mr John Stewart

**Witnesses:**

Mr Neil Gibson	Department of Finance
Ms Sharon Smyth	Department of Finance
Mr Stuart Stevenson	Department of Finance
Mr Michael Watson	Department of Finance
Ms Dorinnia Carville	Northern Ireland Audit Office

**The Chairperson (Mr McCrossan):** I welcome to the meeting Mr Neil Gibson, permanent secretary for the Department of Finance; Ms Sharon Smyth, chief executive of Construction and Procurement Delivery (CPD), Department of Finance; and Mr Michael Watson, director of procurement policy branch, Construction and Procurement Delivery, DOF. You are all very welcome. Thank you for notifying the Committee in advance of who the witnesses were to be. We also welcome back Mr Stuart Stevenson, Treasury Officer of Accounts; and Ms Dorinnia Carville, Comptroller and Auditor General, Northern Ireland Audit Office (NIAO). Mr Gibson, Ms Smyth and Mr Watson, welcome to the Public Accounts Committee. Thank you for taking the time to meet the Committee today. I will ask you to make an opening statement, and then we will open the session to members. Thank you, Mr Gibson.

**Mr Neil Gibson (Department of Finance):** Thank you, Chair and members, for the opportunity to be here to provide evidence in response to the NIAO report on public procurement. You will all be very aware of the importance of procurement to the delivery of our services and, indeed, to the health and vibrancy of our economies and society. You have already mentioned the panel members, Chair. I am delighted to be joined by Sharon and Michael, and I hope that, over this session, you will share my view that we are in very good hands, given the quality of the people who lead our procurement services. On our journey of improvement and the things that lie ahead of us in delivering against that, I would not want to swap the team that I have for anyone else. My thanks to them both and their staff.

We know, from the published report and the data that we hold, that we are talking about £3 billion of spending, which is a very significant sum. It is absolutely right that we provide evidence and that you scrutinise, look at and query how we account for that spending. From looking at the data, we know

that that £3 billion delivers the goods and services that, alongside our people, are the bedrock of the services that our businesses and citizens rely on every day. About 80% of that spending goes to SMEs, and about two thirds of it goes to organisations whose declared office is based in Northern Ireland. In addition to being the provider of the services that we rely on, it is, in and of itself, an important economic and social development vehicle providing a lot of business opportunities throughout Northern Ireland.

We very much welcomed the NIAO's report, for which I thank Dorinnia and her team, and accepted all the recommendations in full. During our conversation today, you will, hopefully, see the things that we have put in place to meet those recommendations.

This will be a pivotal year for procurement in Northern Ireland. We had the obvious and welcome return of the Executive, so there will be a new set of priorities, a Programme for Government (PFG) and an investment strategy, against which we can refresh our procurement policy and strategic direction. The Procurement Act 2023 will come into force in October, which, again, will be a pivotal moment for procurement. Indeed, the changes in that are designed to meet some of the criticisms of procurement around bureaucracy, paperwork and complexity.

With those, if you like, factors of change, our new Minister, despite having, as you can understand, a fairly full slate with Budget matters, has already had important engagement with stakeholders in the procurement space and set out the importance that she places on procurement and how the new Act coming into force and the new strategic direction for the returning Executive will give her the opportunity to bring a new, refreshed policy and strategy direction to the Executive and to deliver continued improvement in procurement. I look forward to explaining in our question session a little more about some of those actions and how they will take us forward. Thank you very much.

**The Chairperson (Mr McCrossan):** Thank you, Mr Gibson. Is there anything that Mr Watson or Ms Smyth wants to add at this point?

**Ms Sharon Smyth (Department of Finance):** No. Thank you.

**The Chairperson (Mr McCrossan):** OK. Thank you very much. I will begin, and then I will hand over to a few Committee members.

Mr Gibson, the report highlights the generally negative perception of public procurement, which we hear about almost weekly. However, it also notes the frustration of procurement practitioners who feel that that perception is unfair. Do you think that the public have, and should they have, confidence in public bodies' ability to effectively manage procurement?

**Mr Gibson:** I do, yes. When I look at the overall evidence — we will come back to the fact that we could do with better and more precise evidence — on the level of expenditure and compare that with the data that I have on legal challenges or the queries that come in from Members or individuals, I see that, undoubtedly, in the scale of expenditure, there are ways in which we could improve. When I look at my accounting officer responsibilities for the areas of procurement for which I have responsibility, I think that we should have confidence in that delivery. While I am not in any way querying that critique, it is important to think about how procurement often gets wrapped up in other issues, such as affordability or planning, and how it can be quite complex to work out which specific areas of procurement need improvement. I accept that we have plenty of progress to make. As an accounting officer and the person responsible for procurement for CPD, I will say that the public should be confident in our ability to deliver.

**The Chairperson (Mr McCrossan):** What specific improvements are needed in procurement, as you just touched on?

**Mr Gibson:** Some of them are very clearly set out in the report, which is very helpful, and are familiar to other areas, not just procurement. The report points to skills and capability. It is a very competitive market to get the talent that is required to deliver services. A significant level of skill and training is required. Retaining and attracting staff are certainly issues. There is a question mark over the specificity and detail of the data that we hold, which is a critical piece of any assessment of whether a service is performing. There are other aspects around strategy and governance. Are we absolutely sure that, in 2024, we have a clear direction for what we want our procurement to deliver? One of the Minister's key priorities is to refresh that strategic direction now that the Executive are back.

**The Chairperson (Mr McCrossan):** OK. I just want to touch on another point. The costs of some of the key projects that have been outstanding for prolonged, protracted periods have exceeded all expectations. What can be done better to ensure that that does not happen?

**Mr Gibson:** Again, this can bleed into other areas, and I believe that you will have the pleasure, or displeasure, of having us back again later in the year on capital projects. Quite often, the issues can pertain to aspects that are outside the remit of procurement. We have lived through a very high cost-of-living era, we have seen significant energy price increases and significant increases in labour costs, for example. There are lots of reasons, and we see across the world as we try to learn from other jurisdictions, that the cost of project delivery is very significant. For me, all that does is heighten the importance that we are as efficient and effective in procurement as we can be. We do not want any other obstacle to add to those other pressures from cost inflation.

Some of the biggest projects are getting increasingly complex, and we see that throughout the world. It becomes a really important piece for us, drawing on the guidance from the Audit Office's innovation report, that we ensure that we learn from jurisdictions that are much bigger than ours. We do that through our stakeholder engagement. Being able to deliver complex projects is a very common problem at the moment.

For me, one of the biggest changes, and something that is more germane today than it has ever been, is the way in which technology is changing. Many projects now begin to change even within the duration of their gestation. The technology or materials that might have worked at the beginning have been supplanted or replaced during the procurement phase. The need to be as nimble and agile as you can is becoming ever greater, and, certainly, the new Procurement Act points in that direction with its attempts to ease a little of the bureaucratic pressure.

I am sure that this will come up a lot during the session: striking that balance between asking for only what you need whilst having enough to provide the evidence and assess performance is one of the big challenges for the procurement industry at the moment.

**The Chairperson (Mr McCrossan):** I appreciate that you said that you accepted all of the recommendations made by the NIAO report. It is a very good report. You have also used two words, "effectiveness" and "efficiency". Do you believe that, to date, prior to the implementation of some of the new recommendations, the handling of procurement in Northern Ireland has been effective and efficient?

**Mr Gibson:** I think, on balance, that it has. I could easily point to areas where we have come below the standard that one would hope for, and there is an obvious asymmetry, in that we tend to hear more about those areas than the ones that have gone well.

**The Chairperson (Mr McCrossan):** Can you give us an example?

**Mr Gibson:** I would not want to pick out specifics. I would be picking out individuals, which probably would not be fair. I look at the overall aggregate of that quantum of spending and the number of businesses that are relying on that. If I put that quantum against the number of legal challenges or complaints that we get, the overall balance of evidence, in my professional assessment, is that we could say that we have a qualified efficient and effective system, but it is always on a journey of improvement.

**The Chairperson (Mr McCrossan):** OK. In your role as accounting officer for the Department of Finance, how satisfied are you that public procurement is consistently delivering value for money, and what examples can you give?

**Mr Gibson:** It is certainly an area in which we run into some complexities, given the nature of the Northern Ireland system in which we operate. As an accounting officer, I can speak to the two centres of procurement expertise (COPEs) that sit within my portfolio but cannot offer the same level of commentary to you and the Committee on the centres of procurement expertise that exist in other Departments and under other accounting officers. One of the key recommendations is about the quality of data against which we can assess that. There is an annual report — the next one is due shortly — on the centres of procurement expertise, but I accept that it does not provide the fullness of information that we would want to be able to report fully and answer that question fully. That is why it is a very important part of what will be our new strategic direction, coming up in the autumn, which will provide a more specific and clear direction on what information is required to be reported.

Clearly, that is a conversation that has to take place with the Executive. I go back to my previous point, which was that recording data can sound like a very simple thing to do: for example, how much was the bid price, and how much was the final price? However, if you have only that information and do not know what the rate of cost inflation or wage inflation was, you do not have the full picture. We get constant feedback from our stakeholders that we can be overly burdensome with the data that we request. Over the summer and into the autumn, that will be a very important part of the work on getting that proportionate level of measurement, so that we can report on and answer more effectively your question about the cross-system performance, rather than the bit in my Department that I can speak on. Sharon, do you want to add to that?

**Ms Smyth:** That would be very helpful. Thank you, accounting officer. From an efficiency point of view, it is about ensuring that the process is as slick as possible. If there is any criticism in the report, it is about risk aversion. That can happen when you specify your goods and services or when you choose to go out to competition. Generally, competition will drive value for money. However, you have to be sure that you are procuring the right thing at the right time.

There is a huge piece of work to do on major capital projects. This is the pivotal point: the investment strategy for Northern Ireland (ISNI) will have new governance arrangements, and that is from the Northern Ireland Civil Service board. There is an ISNI committee, which is a subgroup on infrastructure, but we have — very strategically, I think — focused on how we will deliver ISNI over the next 10 years.

I have just come from a meeting with the NI Construction Group (NICG) on the skills deficit in Northern Ireland. We cannot buy everything at the same time. Labour is probably our scarcest resource, and, as you know, with supply and demand, if you do not have a good supply, prices will increase. On the major capital projects, the Strategic Investment Board (SIB) did research on the inflationary pressures over the time that the Audit Office did its assessment, and it reckoned that about 21% was attributable solely to construction inflation, and that was in addition to all the other external factors.

There has to be a criticism that we are too slow. We have to find a better way to fail fast. That is particularly important on major capital projects. We have the permanent secretaries with the highest spending portfolio areas on the committee. We have the Education Authority, the Department of Health, the Department for Infrastructure and the SIB, and it is chaired by Patrick Magee, the non-executive member on the Northern Ireland Civil Service board.

That gives us a real opportunity to ensure that we have the enablers. One is procurement. As Neil mentioned, we have planning. We have project assurance, project management and making sure that the skills are there. We have seen other reports. What we have on major capital reports is a combination of reports. We have the Northern Ireland Audit Office report on capacity and capability in the Northern Ireland Civil Service and the Public Accounts Committee report. With the new regulations, the ISNI committee and the new Programme for Government, procurement has to be an enabler to ensure that we deliver on the commitments that the Programme for Government will set for us.

The ISNI committee will track investment over the next 10 years and — this relates to the criticism of silo behaviours — get the players into the room. The committee will get into the room everyone who is contributing to the delivery of ISNI, and we will work through cooperation, collaboration and coordination. You mentioned "consistency", Chair. That is what we are lacking. A lot of good work is going on. I visited the central hub a few weeks ago. If you every get the opportunity to visit that, you will see that that is a project that is working really well. There is community benefit happening in and around that hub as well. You have to see those projects working on the ground and how hard people are working to deliver. The hub has not been without its challenges, but people have worked through all the challenges. I think that they got their planning application through in six months, and that was because they had the right people working through the planning system to make sure that they navigated it well.

We need to improve; and we need to be more efficient. I welcome the report, because it gives us an opportunity to look at the governance arrangements. We are drawing up our strategic objectives for procurement to deliver on the Programme for Government. The question then is how to monitor and govern that. The report was clear about the current structures and the Procurement Board. We need to work through that to see how the board should be governed. We have accepted that recommendation about the review. We certainly welcome the report and see it as a way forward for us.

**The Chairperson (Mr McCrossan):** I appreciate your answer, but some of the procurement challenges that we face in Northern Ireland have been there for a significant number of years. Why has it taken the Northern Ireland Audit Office to point to those in a report for any action to be taken? Multiple sectors and stakeholders have been calling for action for years, so why is it happening only now as a result of this report?

**Mr Gibson:** I would argue that there has been significant improvement against many of those criticisms over the years. A good example of that is that we used to have a more complicated policy environment. We now have five policy notices. There used to be 40 policy guideline notes, and there was a strong indication that that was a complex landscape. That has been decluttered and is moving faster. I have a much smaller team delivering them than previously, which reflects an efficiency and effectiveness direction from us. Whether on payment targets or money being spent, we continue to see projects delivered in a way that makes me always feel, I suppose, a bit uncomfortable, in that we have greater visibility when things run into a problem, and so many of them run so smoothly.

We got the Audit Office to take a look at one of our COPEs in detail, and there were no major findings to suggest that we were falling short of any standards. We are also working in your team, Michael, albeit it is a very small team, to drive consistent and considered improvements. You might want to speak to some of those.

**Mr Michael Watson (Department of Finance):** I will go back to your question on value for money, which is a really good question. In procurement, there are two parts to that. Under law, public procurement requires us to get tender offers from a range of suppliers, and we set out criteria to try to identify best value for money. We make a decision on the basis of those evaluation criteria to award a contract, but the true test of value for money is whether we can get that contract delivered for the price that we agreed and the content that we agreed.

The new Procurement Act will make a significant change to test that. For the first time ever, procurement law will go beyond the tendering process. The Procurement Act will redefine the procurement life cycle to say that it is everything about pre-market engagement and preparation for going to tender, and then there is a requirement to deliver that contract.

Where we will get an improvement in the test of value for money is that the new Act will set a transparency requirement on all contracting authorities to set key performance indicators (KPIs) for the performance of contracts when they are awarded and to report at least annually on the progress of those KPIs. It is widely recognised across the jurisdictions involved in the Act — us, Wales and England — that those KPIs are likely to focus on time, cost and quality. That is the true test of value for money.

The introduction of transparency is for not just the contracting authority but civic society to see that we are delivering value for money, but the true test of value for money is delivering the contract that we entered into for what we agreed at the point that we awarded it.

**The Chairperson (Mr McCrossan):** That does not happen that often, Mr Watson, does it?

**Mr Watson:** The report's recommendation on data is very good. For over 20 years, what we have focused on in public procurement is the volume of contracts that we award each year, which is procurement activity, and the value of those contracts when they are awarded. The missing piece is ensuring that those contracts come in on cost. It is very hard to get data on that because the expenditure that is paid on those contracts is managed through an accounting system, not the procurement system. Trying to get an integrated point, link or some kind of data from the accounting system that shows how much has been paid against the contract, whether it is on course for delivery, whether it is within budget and whether it is meeting its KPIs is the particular challenge that we face right now.

We hope that the Procurement Act will go some way to help with that, because there will be a requirement to publish some of the detail that we can gather from a new central digital portal that has been established for the Act.

**The Chairperson (Mr McCrossan):** OK. I will be brief, and then I will let members in. In relation to the value-for-money question that I raised, Mr Gibson, you stated that it is:

*"the nature of the ... system in which we operate."*

Will you elaborate on what you meant by that?

**Mr Gibson:** As Michael pointed out, the current structure is that there are a number of COPEs much closer to their own area than would be possible if you had one central system. Procurement in Health is very different from procurement in Education, for example, but they each have their own structures and accounting officer framework, be that in the Education Authority or in Northern Ireland Water, that links to their Department. To some degree, that limits the visibility that any central body, whatever that may be — a procurement board, a CPD organisation or an NICS board — would have of that information. That is not to say that there is no accountability in governance there. Each accounting officer has their responsibilities in respect of the value for money in their Department, but it makes it more difficult for me, for example, to come here and speak about value for money that is under others' purview. However, the Department of Finance has an additional role in the business case and the approvals process.

Much of the procurement that we have talked about can be relatively small and within delegated limits. Therefore, we have a relatively limited role, although we set those delegated limits and the guidelines for those. However, business cases that are outside those delegated limits come to DOF for scrutiny, and any adjustment beyond around a 10% cost margin has to come back for reconsideration.

I do not want to give the impression that there is no level of accountability in governance, but there is a limit to the kind of aggregate data that you might expect to be able to see to allow us to draw some cross-sectoral conclusions about what has been happening with across-the-piece procurement, rather than having to take that out of each individual accounting officer's assessment.

**The Chairperson (Mr McCrossan):** What can be done to fix that particular problem in order to ensure improvements?

**Mr Gibson:** As I said, this is a critical year for that, in that the new Procurement Act brings new requirements. Equally, however, with a new strategic direction that the Minister hopes to bring for consideration to the Executive to sit alongside that, we can look to new procurement notices and new governance structures to say what will be the transparency requirements that we want to see as a society, and then we can look to the appropriate governance models for that, be they boards or within the NICS. I am sure that we will come on to governance later, but it is really an important year for that, because we will get the opportunity to set a new strategic direction in line with the new government principles and, coincidentally, with a new Act that changes some of the requirements.

We have also learned a lot of lessons about how to do this well. We often think of designing new systems and data systems to record, and we get constant feedback that that can be very onerous, because you are duplicating effort. We are trying to look at the most modern and effective ways of being able to draw data out automatically or by creating a more simplified and straightforward reporting framework. There may be some, if you will, IT and operational improvements on what we might have done before, which has been along the lines of, "Let's design a new system that everyone has to report into". We do not want to create any more burden on very busy organisations, but we think that we should have the potential to design a much better system under the new Act, new strategic guidelines and a much better way of saying, "This is what we require for the following purposes. Here is how it will be reported, and this is the way in which it will be governed". Then, the next time we have a session like this, we would be able to sit here with a more complete data picture to discuss.

**The Chairperson (Mr McCrossan):** We hope. I will make one final point before I hand over to Tom and the Deputy Chair, Cheryl Brownlee. You touched on the lessons that have been learned and said that there have been a number of improvements. In the same breath, however, you also said that there are issues with data. Have you data to substantiate your claim that there have been improvements in procurement and that lessons have been learned?

**Mr Gibson:** Yes, there is data. My colleagues will speak more about the specific nature of the data. When you are in the accounting officer's seat, there are some indications of improvements that you see, including things like the extent to which you get specific complaints or issues. It may be about your payment or about challenges to specific contracts. Whilst I do get them — I am not saying that I do not — there is a relatively small number of those relative to the number of contracts issued. That gives me a sense — at a helicopter level, if you like — of some level of confidence.





**Ms Smyth:** With the major capital projects, the question is this: how many of them are going to meet their outline business case (OBC)? It was very clear that there was a big differential. I think that, overall, an average of 44% were different. We are in a position in which there was perhaps an over-optimism on the cost estimates. That was one of the SIB's conclusions when it looked at the root causes of the major capital projects. We need to get better cost estimates, and that is the work that the ISNI committee will be doing. In the new regulations, there is something that is even stronger than an encouragement. It is about pre-market engagement. As I say, we met the construction industry this morning. People should know what the project is going to cost before they go to market, but there is probably not that level of benchmarking and understanding of market prices or of what the price risk differential is. There is therefore a huge amount of work going on in that area with the construction sector and the public sector. We meet regularly: every few months. One of the questions is about how we get consistency. We have heads of procurement group meetings every few months, where we come together and share information about where the risks lie in each of our sectors and what we should be looking at.

Cost estimates is your starting point. If you get a good cost estimate, your bids come in. For many years — over a decade, I think — we had abnormally low tenders, and there was a risk of bidders coming in too low and then not being able to deliver the contract at that price, and that is where the tension comes in. We do not see that as much now. The construction industry would say that, during COVID, a lot of businesses went out of business. There are now very few companies that will bid low, because of the risk of their not being able to sustain that bid. We are in a far better position with the new Procurement Act. People are busy, however. They want to go out to competition, but moving quickly at that stage is not always the best thing to do. The more work that they build in at the front end, the better their specifications are, the better their cost estimates are and the more competition will be derived. That should therefore make for a smoother path, so you should be seeing more contracts delivered on time.

**Mr Gibson:** I say this advisedly, Tom, but a very important element on which to reflect relates to the word "contract". We have to think about that as being what it is: we are contracting with someone. A level of trust needs to be built into that and a relationship established, however. Although we absolutely make sure that we focus on value for money, because it is public expenditure, we need to, and we have been doing a lot more on this, establish better and closer stakeholder relationships, because companies have gone through a very challenging time, what with wage inflation and price inflation. We have to be cognisant of that in contracts that have been procured over multiple years.

We need to make sure that we have a strong and trusting relationship with our construction industry. Yes, we need to challenge and drive every pound of value, but we also have to recognise that the world changes very quickly. We can end up in a very fractious relationship with so many of those companies if it is matter of our rigidly saying, "That is your price. Yes, inflation for you has been at 20%, but there is nothing that we can do". We need to mature, and we are maturing, in how we look at open book contract management (OBCM) and different ways of contracting services to help us understand the fact that it is not as simple as saying, "This is the price" and then, four years later, saying, "Sorry, that is still the price". That requires a high-trust relationship and a level of transparency and reporting on what those changes resulted from and on whether we can be confident that that is why the contract terms cannot be met.

For example, from a leadership point of view, if I were to assess the performance of my colleagues and teams based on how many contracts they got in on target, rather than be cognisant of the need to understand cost pressures and working pressures, I am not absolutely convinced that it would give the best result for the economy and society. Sharon mentioned this, but moving to having a relationship in which there is better trust and understanding leads to a more honest conversation at the beginning about what things will cost, as opposed to following the approach of bidding low and not being able to deliver on that bid. I am assessing it only qualitatively, but we see a lot less of that now in Northern Ireland.

**Mr Boylan:** Thanks very much for your answers so far. Public spending is certainly about economic drivers as well, Neil. I appreciate that. I have listened to your answers, and I have a question. We have to close the gap, because there are so many measures to consider: value for money; the business case; and the procurement process. We therefore have to marry everything and then deliver. Yes, it is about public spending, but the problem is that, to people out there, when you enter into a public contract, it is an open door. We have to get away from that. My point is this: will the new legislation close some of the gaps?

**Mr Gibson:** Michael is closer to the issue than me, and he can speak to it. I think that it will, however, in combination with a clearer strategic direction for what the Executive want out of procurement — the balance of social, economic and environmental impacts, as well as concerns about value for money. That and the Act together will close the gaps. Critically, the transparency of information, which has been the focus of the UK deliberations on the Act, will give more confidence over what has been procured for what price and what has been delivered. As Michael mentioned, the key for us is to be able to tell the story of what is being delivered as well as what is being procured. That requires taking a more holistic view of the procurement pipeline, and the Act presents the opportunity to do that.

I return to a previous point. It is important that we engage fully with our stakeholders on that. When we talk about more transparency and information, there is an instant fear that that means another reporting layer and another set of measures. We therefore want to make sure that we bring in appropriate governance and reporting, albeit at that level of transparency and openness. To answer your question, the combination of the Act, a new strategic direction and a policy note alongside those presents a real opportunity.

**The Chairperson (Mr McCrossan):** Thank you, Neil. Before we move on to Diane, I say to you that you have touched quite a bit on trust. I wish that I had your faith. Such contracts are big-money business, and quite a lot of things are going on that should not be. In God we trust, but all others pay cash. There is a big problem here, and we need to be reminded of that.

**Ms Forsythe:** Thank you all for your answers so far. I want to get clarity, because I feel that there is a bit of inconsistency in your answers on the attitude to risk. Neil said that, in a lot of this, the complexity and delays involved are because we tend to be quite risk-averse here, yet, in Sharon's answer to Tom, she said that outline business cases are overly optimistic. Costs are being quite significantly undervalued in outline business cases, so projects are going really over-budget. It feels as though you are saying that there is risk-taking in capital projects, where the outcome of the outline business cases is really far away, yet service delivery procurement is quite risk-averse. I want some clarity on those two different answers that you gave.

**Mr Gibson:** Both can be true, including in the conceptual phase, where people are thinking about what needs to be built and delivered. That is why it is called an outline business case: you do not have all the detail. I am speaking on behalf of those who put OBCs together. As a good predictor, you very often look at what has happened in the past. We have seen in recent times that that is not the case. Inflation has been so rampant that previous expectations of what something might cost may not be a good indicator. It therefore may have been not an overly optimistic assessment but one that was simply based on information that has long since been superseded.

You asked about risk aversion. It remains the case that the procurement of, in particular, a major project touches on so many elements of the public service that there are lots of stages of governance involved, whether those be around compiling the business case, the procurement process, the gateway reviews or assessing project delivery. If we layer on too much, there is a fear that each and every hurdle will require more bureaucracy and paperwork. In order not to run into any trouble, the safest thing to do therefore is not to do anything in the first place. We always have to be mindful of that. That is why the new Act and anything that we bring in, such as going down from 40 procurement guidance notes (PGNs) to five PPNs, has to be proportionate. We are certainly doing our best on risk aversion, but — again, this is in the Audit Office's report on innovation — a lot of that comes from leadership. You rightly touched on the point about trust. I have to balance that component with absolute probity around public finances, but we have to have an ambitious and high-trust relationship in order to drive things forward. Leadership is a very important component of tackling any risk aversion and of my empowering my team in its work on developing a new strategy. We have had very productive meetings with our Minister, who has been very engaged with the idea of getting on with things. That requires a little bit of risk-taking. The easiest thing would be to say, "We'll consult on that for a few years".

Hopefully, that gives you a sense of the fact that both can be true. Risk aversion can be coupled with an ambition from those who are putting together the cases.

**Ms Forsythe:** You noted before that the Committee will look at the major capital projects later in the year. It is important to reflect on the fact that recurrent spend and capital projects go hand in hand. A lot of the discussion in the report on recurrent spend is about delays because of complexity and detailed governance, yet we are looking at capital projects, where it feels as though there is less

complexity and detailed governance but absolutely huge overspends. We will look at the two reports in Committee.

**The Chairperson (Mr McCrossan):** Neil, you touched on strategic leadership. Procurement is carried out and managed across a complex network of public bodies and COPEs, as you indicated. Who is responsible for delivering the strategic leadership to drive performance and coordinate behaviours across the various organisations?

**Mr Gibson:** In some areas, some of that is a little bit ambiguous. Look at the procurement policy, for instance. Any policy that sits for that long is probably not quite where you would want it to be at today. Although there are very clear rules and responsibilities about the advice that we provide, procurement policy is set by the Executive. They have responsibility for that. We in the CPD provide the policy advice and help craft the policies. There was a procurement board that was sitting, although it is not currently. We may speak about that shortly. That board had a role previously, but the report was incredibly critical about whether it had provided the type of strategic policy direction that was needed. That is one of the reasons that it is not sitting at present. The Minister needs to consider what the right structure is for it for the future. There are then the value-for-money considerations under the accounting officer frameworks. There is therefore quite a mosaic of different accounting officers, with their own ministerial priorities and the capital programmes and the procurement on which they need to deliver, which their COPEs look after for them. There is also the central policy guidance, support and training that we provide.

It sounds as though I am pinning all my hopes on this in the autumn, but so much rides on having a chance to clarify that position with a new strategy and strategic direction that the Executive agree on, reporting against that and having clear roles and responsibilities for us, COPEs and any future board that may be in place.

**The Chairperson (Mr McCrossan):** It looks and sounds like a mess. It is certainly something that has led to a considerable number of complex issues that need to be addressed. You mentioned the Procurement Board. It is assigned a range of responsibilities that imply that it has a "key leadership role", yet the Audit Office notes the historical criticisms of the board in its failure to address:

*"critical strategic issues that merited its attention."*

Do you agree that the board has historically failed to provide the leadership required in procurement in Northern Ireland? If so, why did it fail?

**Mr Gibson:** I agree only in a limited sense. There is a criticism, rightly, about its role in the bigger strategic questions, but it did achieve many things. The board was instrumental in the move that I talked about, from 40 PGNs to five PPNs. The progression of social value as an important component of Northern Ireland procurement again can be traced back to a lot of important work that the board did. There is, however, a valid criticism about whether it looked at the overall strategic monitoring and strategic direction in the way in which it might have done.

Moreover, there are important points to consider in the report about what the make-up of the board should be. It has had a number of guises. It has had accounting officers and permanent secretaries on it in the past. Then it was restructured under a Minister to have industry representation. Some points made in the report need consideration, such as whether having that representation presents any conflict over its role. That is one of the main reasons that the Minister said to take a beat, as is the parlance of the day, in order to make sure that we do not simply stand back up something that has come in for such criticism but rather look at what exactly it is that we want procurement to deliver and then think about the appropriate governance.

Sharon mentioned that we have a new subcommittee of the NICS board, so there is clearly some consideration of what role it would or would not have. There is the idea of a procurement board itself. Who should chair it? Should it be independent? Where should it sit? That is something that we are looking at as part of our consideration.

What it is important to say, and Sharon can speak more to this, is that all the people who were on that board can contribute. We have already had stakeholder engagement, and Sharon was at such meetings this morning. The fact is that policy can still be crafted now, which is happening, and it can also go through those relationships. Stakeholder relationships that have been built up through that board have not fallen because the board is not sitting. We have been keeping its members fully

apprised of what we are trying to do through the new Act and the new strategic direction and by making sure that governance and accountability are *[Inaudible.]*

**The Chairperson (Mr McCrossan):** I appreciate the emphasis on the new direction, the new strategy and everything else. I asked you a specific question, however, about the "critical strategic issues that merited" the board's attention. Would you say that, to date, before any changes are made to the board, it has failed in those key areas?

**Mr Gibson:** I think that it is a fair criticism, but to say that it failed does a disservice to the progress that it made in areas such as social value, so I do not think that it would be fair to have carte blanche to say that.

**The Chairperson (Mr McCrossan):** It could have done it better, then. Is that a better —?

**Mr Gibson:** Yes, that is a better phraseology. There are many areas in which we could have made more progress, but the board had a limited bandwidth and did make progress in a number of areas. I keep citing social value, but it is probably just one factor. Getting down to five PPNs from 40 PGNs is a big change to the system, and it would be wrong not to acknowledge that as an achievement of the board.

**The Chairperson (Mr McCrossan):** Would it be fair to say, Neil, that, to date, the board has largely been reactive, as opposed to proactive, in dealing with some of the real challenges that are so obvious for procurement in Northern Ireland?

**Mr Gibson:** I do not think that that would be fair. The issues that I talked about before, such as social value, required a certain level of proactivity. That would not necessarily have been a reactive point. It is linked to other points in the report that the limitations on some of the data that was there then, and is still the case, meant that for some of the other areas on which the board may have been expected to do more, it would not have had the information to do so.

Sharon, you have seen the various iterations of the board, so you may want to add a bit more.

**Ms Smyth:** Certainly, for the post-2020 board, the proactivity there was very clear. There was a clear leadership role on social value. You may say that supply chain resilience was reactive, but we were making sure that, in the future, we would not have the same potential supply chain issues that we saw throughout the global pandemic, when supply chains were really disrupted, leading to an increase in prices.

I have looked back over the iterations of the board since 2005. Strategic frameworks were set up. One of the things that hampered the board was that there was a bit of a start-stop process when the Executive fell at a time when a Minister was chairing it. I looked at the period from 2014 to 2020, and there were 12 Procurement Board meetings, six of which were chaired by a Minister, and that was because there were times that a Minister was not there or the Minister was occupied with other things of priority. From December 2020 to September 2022, we had nine Procurement Board meetings, seven of which were chaired by a Minister. That is what helped deliver. We were astounded at the pace at which we were able to deliver five PPNs. The pivot from 2020 was that those procurement policy notes were not agreed by the Procurement Board but were signed off by an Executive. The Procurement Board's role became almost advisory. The Minister decided — that was clear leadership — and the direction of travel was clear. That is what made the difference.

If we were to set up a new Procurement Board, that would be done on the basis of clear decision-making by the Executive, whereby, if policies went to the Executive and the Executive agreed that they were strategic priorities, all Departments would have to fall in behind them. The five procurement policy notes come with a ministerial opt-out, which means that every accounting officer or official has to go to their Minister in order to opt out — not an easy thing to do — because of exactly how the policies are written.

The 40 PGNs that were in place previously contained a mixture of policy and guidance. I therefore do not criticise people for not being able to navigate 40 PGNs that they had to understand without the notes even having profiles that said, "You are at this stage of the procurement. These guidance notes apply". It was a case of, "You have to apply everything at whatever point", so I would not criticise anybody for having to navigate their way through that. We now have five clear Executive policy objectives and two construction and sourcing toolkits. That allows for flexibility. Compared with other

jurisdictions, we are criticised for being prescriptive and for being all about the process, meaning that the outcome is not as important. The flexibility provided by having two toolkits covering the end-to-end procurement lifecycle for general sourcing and construction means that people can pick and choose what suits and what can be tailored to their needs.

You talked about lessons learned, Chair. Although we are not responsible for education procurement, for example, our Minister gets in front of that, recognising that things in schools are too expensive for them to be able to buy themselves. The Education Authority is setting up new frameworks that allow minor works to be procured locally, in the schools. That is among the lessons learned about collaboration. There was an NIAO report in 2012 and a PAC report in 2013 about collaborative procurement and aggregated demand. Aggregated demand is very useful up to a point, but, when you centralise to the extent that it impacts on locality and SMEs, there is a disincentive to aggregate. I will give you the example of taxi services. Transport was one of the categories on which we decided to collaborate, but the requirements of taxi services in education — picking up children with potentially special educational needs or difficulties in getting to school — are completely different from the taxi requirements of the Civil Service for picking up civil servants from an office to take them somewhere.

We learned those lessons very quickly, and that has led us to have 59 collaborative procurements, but not everybody is collaborating on each of them. That is where the system can flex and where the close working relationship with all other centres of procurement expertise is key, ensuring that we collaborate and centralise only to the extent that it makes a difference without impacting negatively on the local environment or community.

**The Chairperson (Mr McCrossan):** Thank you.

**Ms Brownlee:** Thank you so much for your answers so far. Is the configuration of the board appropriate for it to deliver on the full range of its responsibilities?

**Mr Gibson:** That question has to come after the answer to the question of what it is that you are asking your procurement to deliver. That is one of the reasons that, in consultation with the Minister, the board was not stood up again in its previous guise. Knowing what you want your procurement to deliver, how you want to govern and what the accountability frameworks are for that helps you understand what structure would be best. Sharon said that the progress that was made on the new PPNs suggests that that structure worked well for that particular era in order to do what needed to be done to bring in social value, but what if the strategic direction looks a little different now? What if transparency is a key focus of data? Would it therefore be appropriate to have those who are seeking to win contracts on the board that decides on them, or is it better to have them as a stakeholder or on an advisory forum? That all has to be determined.

The correct direction of travel and my advice to my Minister has been this: determine the strategic direction of what it is that you want procurement to achieve and then think about the accountability and governance frameworks that will work for that. We have had such frameworks with the Minister and with accounting officers, and we then saw a great focus on PPNs and on social value, which worked very well, but what might the next era involve? It might look a little different. That is why we are committed to moving at pace to progress, if we can, the new strategy to coincide with the Act, because you would not want an extended period of being without it, although we have, for political reasons, just had such a period. You do not want to extend a process without having the right governance and accountability in place, but it was my view — the Minister has indicated that she is supportive of that view — that it would be the wrong way round to stand up something that had been criticised in a report to stand against what actual strategic direction. If I had thought that the strategic direction were going to take years, that would not have been my advice, but I think that we can move very swiftly on that, he says confidently as the man whose colleagues will be working hard to do it.

**Ms Brownlee:** I appreciate that. When I read the NI Audit Office report, one of the main things that jumped out to me was the composition of the board. Do you believe that, at the time, there was potentially any bias in policymaking owing to the board's configuration?

**Mr Gibson:** Looking back and thinking about the minutes of meetings, I would not say that, on the basis of what I think was delivered. Again, I go back to social value, which was quite a challenging policy area in which to deliver. There were perhaps different views from the construction industry from what there were from a policy perspective. It worked rather well, however, and the sector came on board very well. Would it have worked as well if it had not been represented on the board? I am not so sure. That could have been a more contentious policy development than it turned out to be. Again,

from thinking about what that board achieved in its time, I cannot say that I could detect any sense of bias. There is no data to point me in that direction. I go back to the point that that may not be the net direction of travel that you want your next structure to take because the previous iteration of the board had a very particular focus, which was to declutter the policy landscape and progress social value. It definitely achieved both of those aims, and nothing that I have seen implies to me any suggestion of bias. The composition of the board, whether it is a board or an advisory forum, and how it segues into the NICS board is a really important part of the conversation this summer and autumn.

**Ms Brownlee:** Definitely. Did its membership technically mean that the heads of COPEs were essentially monitoring their own performance? Is that the right take on the board at that time?

**Mr Gibson:** Yes, and, as we said, and it is in the report, one of the critiques is that that kind of assessment of performance was not done to the level that we might have hoped for and expected. That is not fully a criticism of the board, because, as we have mentioned, the data was not really there in the way in which it perhaps should have been. Rather than assessing its own performance and giving it a tick, the board focused on other elements, which it did rather well. The idea that members can mark their own homework is a very strong concern and something that would have to be considered when deciding the make-up of any future board.

**Ms Brownlee:** Do you believe that that amounted to good governance? I know that we are almost in limbo, but what progress has been made to date to address that?

**Mr Gibson:** The most important comment to make on that is that I consider the greatest governance failure, if you like, to have happened with the lapse in the strategic direction. That happened for all sorts of reasons that we could talk about. We had a forward work programme, but we still have documents on the policy framework that is being referred to in the report. The framework is so old that it does not even have the correct Department title on it. In my time, what I have put to the Minister as the first point of good governance is to know what it is that you are trying to achieve. In my view, the lapse in the strategic direction allowed the board to focus on the issue of the time. We have to think about the pandemic and why supply chains became an important issue. It therefore did what it had to, but its work probably falls into that more reactive space. The real governance failing that I think is there, and that I accept, is that lapse in the strategic policy framework that you are trying to orientate yourself towards. That is certainly the first priority to try to clarify now.

**Ms Brownlee:** We have talked slightly about the strategy. What plans do you have for its introduction? Where is it sitting at the moment?

**Mr Gibson:** I will let colleagues come in on that. This has to be your favourite topic, Sharon. We have spent a lot of time on conversations on what will be in it and on what principles, themes, transparency and balance it will have. That should, in time, lead to very fruitful conversations with the Minister and stakeholders. We are also trying to learn lessons from the Audit Office's reports to see who else has done this and what best practice at the moment is. New guidelines have been coming out in England, for example. We can craft a fairly good test case — a straw man, or straw person — in order to critique quite quickly. There are a number of principles that you would find it hard to believe that we would not want here. Transparency is one such key principle now across other jurisdictions. We can get up to speed quickly. In other words, it is not a situation where we go out to say, "What would you like to see in a strategy?". We can put something up to critique. We think that we can make relatively swift progress on that. We will try to draw on all the material, take it to the Minister and then have stakeholder engagement.

I am stealing all your thunder, Sharon. I will let you speak to that.

**Ms Smyth:** I know. The reason why Neil said that is that I have lived this. I have looked at all the reports since 2010. The Committee for Finance and Personnel produced a report that had 52 recommendations. If you add recommendations from the NIAO reports to those, you will see that I got to 186 recommendations for public procurement across the past 14 years. That leads us to what the new Procurement Act will do. Some of those recommendations are outdated, and some have already been achieved, including one on a single portal for all tenders. We have 146 contracting authorities that use eTendersNI, so we should probably congratulate ourselves for some of the key things that we have that other jurisdictions envy. We have centralised procurement. All our Departments buy through a COPE for things that cost over £30,000. Other jurisdictions — I mean England, Scotland and Wales — do not have that. Their Departments buy for themselves, so we are ahead, and that is simply because of our size. We have nine unique portfolios, and that is because we buy water. NI Water,

Translink and all the other COPEs have their own special portfolios. Those 186 recommendations have allowed us to ask, "What gaps still exist? Where do we need to learn the lessons?". Certainly, efficiency has come into the question of how you demonstrate that your structures deliver value for money.

Accessibility is an issue, for example. Can SMEs access the documents, and, if they can, are the tenders structured in a way that means that they can bid for them? It also needs to be ensured that the risk profile has not been made unequal, and there are transparency and social values to consider. All the things that all the reports in Northern Ireland have said that they would like to see from a procurement function have led us to the skeleton of the strategy. Our Minister has had a review of the strategy, and the next stage is to consult our stakeholders and Departments to see whether they think that it fills the gap.

The other thing for us is the Procurement Act. There are things that we have opted out of because they are policy levers, so we have the responsibility to fill those policy gaps if the Executive want us to. Those are the things that we will bring to the Executive to see whether we can use our policy levers to do that. We have a good strategy, I believe. SIB has also looked at the strategy, and it thinks that it is going in the right direction. Our next step is to socialise it with our key stakeholders and Departments.

Another thing that we are doing in tandem with that is procurement policy note 01/22, which is on social value. We committed to reviewing that. The Executive would like to see that review, so we are talking to our industries, the construction sector and the Federation of Small Businesses (FSB). I think that you mentioned that you will take evidence from them. We need to discuss with the Confederation of British Industry (CBI) and the Institute of Directors (IOD) — that is all the letters of the alphabet — not only exactly how the measure will impact on industry but how it will help. We really need to help. We have given you some figures about the SMEs winning government contracts. Microbusinesses are in the strategy as well, so we need to make sure that, in Northern Ireland, whatever we do does not impact on the businesses that thrive both on public-sector and private sector spend.

**Ms Brownlee:** Thank you. I have one last question. You touched on the Education Authority — that must have been about half an hour ago now — but its procurement practices are critical and need significant attention. Can you give some details on that? Figure 2 of the NIAO report, which is labelled "Legal challenges made against procurement decisions in Northern Ireland", shows that, between 2020 and 2021, the Education Authority had 14 challenges, which is significantly more than anybody else. Is there a reason for that?

**Ms Smyth:** My understanding — do you want to come in, Neil?

**Mr Gibson:** No; please. You are on a roll.

**Ms Smyth:** My understanding of that — I can be corrected — is that that was 14 on one contract because 14 writs were brought in. If I am thinking of the same one, I understand that they collapsed them.

With regard to the new frameworks, everybody thinks that, because "procurement" is in the title of CPD, it is the Minister of Finance. The Education Authority is a centre of procurement expertise in its own right. It will set its practices out, and one of those is that, when it sets up a framework, every school has to use it. We have had anecdotal evidence that someone in a rural school in Portaferry has to wait for someone coming from Enniskillen to do a piece of minor work. From a carbon point of view and a value-for-money point of view, it is rectifying that in its new framework so that schools will have the autonomy to carry out their low-value minor works. I cannot speak for the Education Authority, but, if any school wants to have more detail, they can contact their estates team in the Education Authority. It will give them an idea of the timelines, what it means for them and how they can go ahead and do that.

**Mr Gibson:** We have already had fruitful conversations with the new chief executive of the Education Authority about being sure about the role that we can play in the policies and, as we think about the new strategy and structures, about what those principles are. You mentioned carbon dimensions and social value. There are a lot of pieces in that puzzle. Each COPE has its own expertise, but, if we have some common transparency reporting frameworks, it will become a bit easier and clearer to report on that.

**Mr Boylan:** Thank you very much for your answers so far. I will not get into the direction of travel. You mentioned the autumn, but I will just concentrate on why we are here today and the recommendations in the Audit Office report. I want to talk about the structures in particular.

The report sets out the largely decentralised structure within which public procurement is delivered. I would welcome your commentary on why the procurement system is structured as it is.

**Mr Gibson:** That is a really good question, because, even in the time that I have been in post, there have been some interesting experiments on that about whether things work best centralised or decentralised. The truth is that each has its flaws. We have an example, which I will let Sharon speak to, about the Health Projects group, which we centralised in order to drive some more efficiencies and then decentralised again because a disconnect developed between the sector and other colleagues. Sharon will say more about it, but it ended up becoming a bit less, and the disbenefits were outweighing the benefits. That taught me that the structure that we have comes after what you are trying to achieve.

The idea that it can all be centralised probably does a disservice to the complexity of procurement, because the level of specialist knowledge in particular areas about the way that they procure and their appropriate limits and controls does not really lend itself to the procurement being done in one place. That does not mean that things like reporting and monitoring cannot be done in a central place or that principles or policy guidelines cannot be set centrally. However, my recent experience has been that the benefits that, you think, you might get from the efficiencies of doing anything in one place can lead to a greater disconnect from the sector that you are trying to serve. What was important from that lesson was that we were able to bring that in, see if it worked and decant it back out to the Health Department relatively seamlessly and quickly, once we had realised that it was not driving the benefits that we thought. Sharon certainly lived through that experience of what we thought we would get out of it by bringing it in centrally and then sending it back out; it was just not quite working the way that we had hoped.

**Ms Smyth:** In 2013, the SIB report on commissioning major capital projects suggested that we should move to a more centralised model. We did not get Executive agreement for that, but we got an agreement between the Ministers of Health and Finance to move Health Estates, as it was at that time, into CPD, so they came into CPD in 2014.

In 2018, the DOF business consultancy service reviewed how that transition had worked. It identified issues in the Department of Health, CPD, the trusts and arm's-length bodies (ALBs), including a lack of clarity and understanding about the roles and responsibilities of each of the organisations; lack of understanding of the limitation of roles and responsibilities of the partner organisations; and a significant reduction in the resources available to support the arm's-length bodies. The trusts felt that there was a dilution of services when there was a centralisation in and a lack of prioritisation of the use of the resources. When I came into my role in July 2021, I looked at the memorandum of understanding between us and Health and did not feel that it closed that gap. I could not see where the accountability lines were. I felt that there was a blur in the accountability.

It also became evident that, before I joined and when COVID hit, the Department of Health had seconded the grade 5 from Health Projects, which was in DOF, back into Health because it knew that it needed that expertise in its organisation. When we tried to get the memorandum of understanding to the extent where Health felt that it was getting the service that it had in 2013 or 2014, we realised that we would never be able to deliver that, so we set up a team to move that work back in. One year on, they have done a review. I do not want to take up the Committee's time, but I have a full list of things that, they think, have improved when Health moved back. The biggest issue is that the Department lost that sense of subject matter expertise. Health Projects has about 40 to 50 staff, including architects, civil engineers and quantity surveyors. The team felt that losing the technical group's expertise in the Department of Health diluted its ability to respond quicker to the whole estates piece. It had moved to a procurement function and ignored the fact that it delivered a better service and advisory role when it was in the Department of Health than it felt able to do when it was in the Department of Finance. That said, when justice powers were devolved in 2008, we moved the NIO team into CPD. Twenty-eight staff moved across, and we were able to quickly integrate them into what we buy. It just became a normal department. We now run that procurement with nine staff. You will get a better service in one area only when it is knitted neatly with what the other areas do.

I did a thesis at one stage on the difference between centralisation and decentralisation. They each have merits, but diluting a service by bringing it into another area is more detrimental to the overall service than procurement. The NIAO report and the new regulations broaden the definition of



procurement. Procurement is not the tendering piece, the bit that has been regulated since the mid-1990s. We have that down to a fine art. Procurement is about commissioning and finding out what you need to buy, with that information going into the business case. It is about market engagement, asking this kind of question: what are other jurisdictions doing in a particular area? Rarely do we buy something that does not exist somewhere else. It is about horizon scanning, benchmarking and then going to the tendering piece. As Michael said, you get the biggest benefit and the most value in managing a contract. Since 2020, we have had over 1,000 staff do contract management foundation training. We understand that we have to equip people not just in the procurement function but in the Departments. We have done a huge piece of work on that, as have other Departments.

**Mr Boylan:** I have two more quick questions. Does the structure inhibit effective strategic leadership in any way? How can you evaluate the efficiency of procurement?

**Mr Gibson:** On the first one, my considered answer is, "No, not if you put the right reporting and governance in place". The structure is too complicated to say that one size fits all. It is always easy to say, "Look, this would be simpler if there were just one", but it is not all the same. Procurement is complex. The structure, as set up at the moment, can function well, with centres of expertise and specialist knowledge, if we can then set up a more common reporting framework on what they do.

On your second question, the structure definitely increases the complexity of understanding and monitoring performance. That is definitely the case, and it is what the report points out. As we said, that is definitely an area that needs considerable improvement. However, in my professional opinion, I do not think that, if it were all in one big group, everything would work better and be easier to control. We have a few case studies, which we have talked about, that show that that would dilute the specialist knowledge that we need. The answer is no: the structure does not define whether we can manage it and get good performances. Reporting is key to being able to see whether the structure works effectively.

This last point relates to one that I have already made. You have to be willing to move, if the structure is not working in the way in which it should. We should not see structure as a great inhibitor; we should just change it if we need to change it and not be too wedded to one model. If it needs to be centralised, centralise it. If it needs to be decentralised, do that, but do it quickly and effectively. I do not have any hard and fast rules, if you like, on the perfect structure. The decanted model is not too bad at all, if we have the correct reporting system.

**Mr Boylan:** Did you say that there was a review of the structure or of an element of it? I would just like to have that clarified.

**Ms Smyth:** It was reviewed in 2018. The business consultancy service did a review when Health moved into CPD. It is important to do a review after something is put in place. That is what is happening with PPN 01/21. We are reviewing that. We committed to doing a review, and it is important that that happens. If we were to criticise ourselves, we would say that it took us a long time to review the PGNs that were on our website. There were over 40 when we looked at that in 2020. A lot of them were just restating legislation or gold-plating things that we did not need. There was a lot of prescription. Sometimes, when something went wrong, the automatic response was to plug it with guidance, and that became very prescriptive. Then everybody focused on the process; the process was king. You have to have only one legal challenge to make you focus on the process for maybe the next 10 or 15 contracts.

When our Minister came in, we looked at the number of contracts that we had that were reserved. Reserved means that you can focus on social enterprises or organisations whose main aim is not profit, and we set out on a pathway of reserving a number of contracts. We tried to reserve three contracts and were legally challenged on each one. The writ went in, and we had court cases and affidavits. It did not stop us going for another reserved contract, and that was because we had the leadership and support. Sometimes, we just need to be brave and work through those legal impediments. There is some rhetoric out there that, when the new Act comes in, there will be a huge amount of flexibility. The worst thing that we can do is not harness that flexibility. However, with flexibility comes the potential risk of challenge, because somebody's judgement will be challenged, and that is where we, as leaders, need to make sure that our staff are supported and are trained and skilled to do that. That is where networks will become hugely important.

**Mr Gibson:** Sharon will roll her eyes at this, but you will hear it almost every time I am at one of these sessions. There is a structure to good governance, in my mind, in what, I think, I need to provide as an

accounting officer. One element is that we have to know the strategic direction that we have been given politically and what you are trying to achieve.

I will go back to the points that were made about being reactive versus proactive. It is about a regular schedule of updating policies and not leaving things to lie or having strategic documents that have the wrong titles, and that comes back to having a schedule and a set of ownership principles where you say, "This policy was last reviewed in x. It is next due for review in y", rather than waiting for an incident to pop up to review it. My team is exhausted with me saying, "Who is the document owner? When is it next updated? What is the next schedule?". That brings a bit of structure rather than necessarily saying that there is a whole different model that works, but it is about how we make sure that everything that we have put in place has a regular review cycle.

**Mr Boylan:** Thank you.

**The Chairperson (Mr McCrossan):** I will let Colm in shortly, but I want to pick up on something briefly. I may have picked it up slightly wrongly. Did you say, Neil, in your answer to Cathal, that the existing system can work if specialist knowledge is in place?

**Mr Gibson:** Yes. Think about a centralised model of procurement. We learned from that Health Projects experience that there are very specialist types of procurement and skill sets but that also benefits from being close to other workers and other teams in that sector. That close location helped keep that level of skill up. Equally, it reminds us that each COPE knows what skill sets it needs in its procurement team better than we do centrally. There may be specific nuances to procurement law or to matters of procurement that may be very different in a Health procurement arena than it would be in, for example, water or transport. Therefore, relying on the COPEs to determine what skill set and workforce they need becomes important. We can provide guidance and support on the common skills that are needed, but there are definitely examples where not every COPE is staffed with exactly the same people doing exactly the same things. There is a specialist knowledge there that is not easily provided centrally.

**The Chairperson (Mr McCrossan):** Are you saying that it does not exist?

**Mr Gibson:** No, sorry. It does not necessarily exist in abundance to allow us to provide it centrally. Yes, apologies. I was not making any remark saying that the Health team is missing that talent.

**Mr Gildernew:** I want to pick up on a small point from Cathal's question. Sharon, you said that, with the first three reserved contracts that you put out, there were three court cases. Are those resolved or outstanding, and how did they go?

**Ms Smyth:** They withdrew, but that was about six months down the line. We had all the affidavits done and had court dates scheduled, and they withdrew their affidavit. There were things that we were able to rely on, because they said, "Who made the decision to reserve?", and it was easy for us to point to the social value policy. However, it was time-consuming and not for the faint-hearted. If you get the first challenge, you will probably say, "Well, just open it to everybody".

I have concentrated on PPN 01/21, which is scoring social value, but there is PPN 02/21, which is about commission of social services. It comes back to the risk aversion point. Some people will procure everything in the same way because they are concentrating on the process. This is about the shift in culture. It is about trying to get people to be clear about what they are trying to procure or commission, and we very much say that there should not be procurement in some areas at the minute and that there should be grant funding in some areas, particularly to the person, whether it is in health, social or community services. We are working closely with the Departments on that.

**Mr Gildernew:** It is good that a precedent of some sort has been established, because any transformation would challenge the status quo, and it is vital that you can point to policy when making changes.

**Mr T Buchanan:** I have a question about risk aversion. This was touched on a little earlier in the questioning, and you said that leadership was important in tackling risk aversion. The Audit Office report highlights the fact that:

*"a culture of undue risk aversion"*

is a systematic issue with procurement. What are the reasons for that?

**Mr Gibson:** It can be complicated in that, as Sharon alluded to, it is a great challenge when you get your first legal writ. You will be thinking that a lot will happen, and you will ask, "Will the next one-to-one with my line manager be about the fact that that procurement has been challenged?" So much of that comes down to the tone that I, my colleagues at the leadership table and Sharon set by saying, "No, we will continue. We will press ahead and support you in that". It is my responsibility to own the decisions that my procurement team takes, but it is also important that we lead people and, even if it has been challenging, encourage them to come back and say that lessons have been learned and that we should go again.

As was pointed out in the answer to the previous question, there are a number of legal challenges, and there is evidence and data that it is less costly to carry out legal challenges in this jurisdiction. The numbers are not incredibly high, but that does not tell the full story, because there is a fear of litigation. That means that, as Sharon said, the easiest thing to do is to procure what you have always done in the way that you have always done it, because, if that was not challenged, it will again not be challenged. The only true answer to that is to have leadership, training, culture, strategy and policy direction. We are improving considerably on that, but, as procurement exercises get more complicated and complex, there is a natural tendency to try to find a system that has worked elsewhere.

The short answer from me is that it absolutely stems from the leadership in the organisation. Will you support those on your team to do something new? What new things should they do? They should do the things that are set out in the strategic direction. That social value element is a prime example of saying, "Yes, we'll go again". Once you have done that and have won the challenge two, three or four times, it becomes more like common practice and the normal way of doing it. What you cannot do is react poorly to that challenge. You have to come in, learn lessons and go again, if that is the right thing to do. It is predominantly a leadership challenge.

**Mr T Buchanan:** It appears that, right through, it is a learning process.

**Mr Gibson:** It is. You must support your staff in what they do. We provide training and support. There have been new guidelines on innovative policymaking. A culture change is happening across the services with the aim of making our staff feel fully supported to make brave decisions while making sure that they do so in an evidenced way and that, if we make a mistake, we learn from it so that we do not make it again without necessarily determining that it was not the right course of action. I take significant responsibility for making sure that that is the culture in the Department of Finance.

**Mr T Buchanan:** Thank you. The Audit Office describes concerns that COPEs expressed about their ability to recruit and retain the full range of suitable, qualified staff that they need to perform effectively. What action has the Procurement Board taken at a strategic level to investigate the scale and impact of that and to support work towards any practical remedies?

**Mr Gibson:** My colleagues will have more to say on that. It is linked not just to procurement. My greatest concern at the moment is the public service's ability to attract the finite and particular skill sets that it needs. That means that there is a big responsibility on us to train our own staff, providing the support, development and training that will allow those staff to come in. Things that we are taking through on our HR side look increasingly towards apprenticeships and new graduate schemes. We are looking at new ways of training our staff. Critically, if that is to work, ours has to be a profession, a sector and an employer that people want to come to. We have challenges with salary competitiveness, of course, which is something to look at.

What type of employer are we? We are a supportive and inclusive one that will back its staff and give them the opportunity to work on some of the most transformational projects in the place that they live. Selling the jobs is an important job for the HR side, which I also have responsibility for. However, we also have to work on supporting and training our staff. I am concerned about the level of support that we have in staffing, even centrally, given the budget cuts that we have faced and continue to face. You are looking at 50% of Michael's team, with him being here today. Those points are as true as they were when the report was written, and being able to support and develop our staff is becoming an increasing concern. I know that you will want to say a little about that, Sharon and Michael, because we can do none of this if we do not have the people. They are the most important piece, and each of the COPEs is saying, "I have particular challenges in attracting certain pockets of talent that I need".

We have done so much in training and development, but people who have delivered a major project and have been involved in procurement have an attractive skill set for elsewhere in the service. We are training people who, rightly, are moving on, and that means that we need to have the right pipeline.

**Ms Smyth:** We are a victim of our own success because our skills are so transferable. We lose people to the private sector. One moved last week for a £10,000 salary increase, which is something that you cannot compete with.

The session I was at this morning with the Construction Industry Group was about skills. There is a skills deficit across Northern Ireland. When people think of procurement, they think of procurement advisers and people who have Chartered Institute of Procurement and Supply (CIPS) membership. However, we have architects, building surveyors, engineers and quantity surveyors. We got two new quantity surveyors in, and I am literally making them tea and asking them if they are OK and having a good day because I want to keep them.

**Mr Gibson:** You do not make me tea.

**Ms Smyth:** No. It is really difficult to keep staff, but that is the case not only in this jurisdiction. We did a video for procurement professionals across England, Scotland, Wales and Northern Ireland. We are having a procurement conference, funded by the Cabinet Office, at the end of May to raise the profile of what we do, because people do not understand what "procurement" means. People do not understand what a job in the Civil Service means. You could have anything from operating a drone to buying a drone and managing the contract and anything in between. We buy helicopters. We buy fleet for the police. We buy uniforms. We buy anything that the Prison Service needs to operate. All those things are exciting.

We were talking this morning about careers advisers and how we attract people. Really, it is about getting to schoolchildren even before they go to secondary school and choose their subjects. We had a good discussion about higher level apprentices and how we get to them. We heard from a girl who is in a higher level civil engineering apprenticeship. It is really difficult, and the short answer is that we are growing our own, because we find it hugely difficult to attract staff to and retain them in the Civil Service.

You talked about risk. We have to make it attractive, and some areas of risk that people are fearful of are internal or external audit. That is where the innovation guide comes in. We need to change the conversation from one in which people do not want to do anything because, if they do, they might fail to one in which people are empowered and want to be innovative and creative. That is the journey that we are on, because we have to do that in order to keep people. If people think that the job is boring or risky or that you will be in front of the permanent secretary or the Audit Office, it will be really difficult for us to get people in.

We understand that we do not need some of the people whom we are looking to bring in all the time. Those people provide specialist services, and we look to the SIB or to consultants, so it is then a value-for-money consideration. We much prefer to grow our own and keep that talent in-house. The challenge that we all face with constrained budgets is to make sure that that pipeline grows continuously. However, it is a challenge not just for the private sector but for us.

**Mr T Buchanan:** Given the difficulties that you face, are you aware of any pooling or sharing of resources between COPEs in order to alleviate staffing or skills shortages?

**Ms Smyth:** Collaborative procurement is as close as we have got to that. Rather than every organisation buying its public-sector telephony network, we have a shared service for that. We have a shared service for other contracts to save procurement organisations from having to buy continuously and the same thing.

As for where we need to get to and where the technology is, we do not have enough staff to take out of the day job to allow us to see how we go with that. There is artificial intelligence and digitalisation. I do not want to quantify the money that goes across the system to generate the reports for our annual report. There used to be an external COPE assessment every three or four years. Hundreds of thousands of pounds' worth of time and effort were spent on those COPE assessments, and we had to ask ourselves, "What is the value if everybody is passing every time?". However, during that period, we had the same number of complaints and legal challenges.

We have to build value into the system. We have to take nugatory effort out, so that means all the administrative tasks that do not need a procurement professional, an architect or a quantity surveyor. In schools, we are looking for standardisation; one school design is not the same as another. There is work to do, and a lot of it is driven by financial constraints: there is simply not enough money in the system. However, efficiency is the right way to go even if you are not constrained.

**Mr Gibson:** I do not want to delay us too much — this is probably for another session and, in time, a different report — but we have some actions under way around the people in Organisational Development (OD), which is part of our HR system. We are reviewing the professions that we have across the system, of which procurement is one. In other areas, we have set up networks of our SROs. We have a new technology system coming in for our HR systems that will, hopefully, help us to be better able to say, "We have talented people across the system. Where and when do we need them?".

The challenge can often arise when you have delivered a significant project. Doing that can be incredibly taxing, mentally and emotionally. It might be best for the system for us to say, "We now need you on this next most difficult project", but that may not be best for that individual's well-being. We need better data for that. There is a project under way to review professions and another under way to install our new enterprise resource planning (ERP) system. Hopefully, we will get much better at saying, "Here are our talented people across the service. When might I need them?". You are right: we will not be able to provide every skill set in every COPE. We will need to be able to lean in with the particular expertise when it is required. There is a big important workforce model consideration to make on which emergency teams will come in to deal with specific issues and what business as usual (BAU) staff are needed.

There are lots of HR and OD initiatives under way, but, as Sharon said, our ability to retain and attract the talent that we need in procurement and other areas is a deep concern.

**The Chairperson (Mr McCrossan):** Tom has another question, after which we will move on. Members, please be conscious of time. Neil, Sharon and Michael, whilst we appreciate your detailed answers, can we get straight to the point with some of the things and elaborate where we can?

**Mr Gibson:** That is not something that I am renowned for, but I will do my best. *[Laughter.]*

**Mr Gibson:** You could be here until the summer.

**The Chairperson (Mr McCrossan):** I say that in a friendly way. Over the course of the meeting, we have drunk more water than most of the building *[Laughter.]*

**Mr T Buchanan:** This is my last question. Is there concern that the Procurement Board has not been actively evaluating capacity and capability among contracting authorities? Do you agree that it is essential that the Procurement Board delivers that oversight?

**Mr Gibson:** The quick answer is that it depends on what accountability and responsibility framework we set up to go alongside the new strategic direction. It will be possible only if it has the requisite data to make that assessment. It goes back to what data we want to collect and in what way.

It is easy to ask for a report on skills shortages, but, when you think about it, it is more difficult to be specific about what skills you need and the quantum of them that is required. The board did not have a particular focus on that, as we talked about earlier, but it is something that we will look at under the new framework.

**Mr T Buchanan:** Has the issue been remedied in any way since the report's publication?

**Mr Gibson:** There is a responsibility on each accounting officer who has a responsibility for a COPE. I have responsibility for two. It is in their interests to make sure that their COPEs succeed. I can speak about the competitions that we have tried to run and the difficulties that we have had in our COPEs. Each could speak to their own, but, predominantly, there has not been a centralised solution to that; it has been down to the accounting officer's engagement with their COPE to look at what skills, talent and recruitment they need. We have looked at that in my Department, but we continue to sit with a significant number of vacancies, unfortunately.

**Mr Delargy:** Thank you for your answers so far. To be honest, you have partially answered a lot of my questions. Will you give a bit more detail on your view on the key capacity issues that affect the contracting authorities in the North? You touched on a lot of those points around capability and have gone into detail on some of them, but I am looking more for what you see as the big issues within that.

**Mr Gibson:** A combination of skill sets is needed. You need strategic thinking in any COPE to think ahead about what needs done, what the ultimate goal is and what the leadership challenges are, which are always in short supply in any business. That is why we have been doing the training to make sure that we have people with the delivery and contract management skills, because that work can be very different from dealing with procurement issues. Most importantly, you have to stay close to the changing environment in which you operate, because the skills that you need change all the time; there is not a fixed set of skills. We need more ability to adapt to digital technology, for example. The procurement skills that we need evolve all the time, and more things are being done differently. Each COPE will have its own specialist concern.

Sharon has mentioned some areas. The building requirements are relatively straightforward. Therefore, perhaps, the architecture or civil engineering skills are more modest, but that is not the case in some other areas, where those issues are the most complex ones. It would be fair to say that it differs across each of the COPEs. The honest assessment is that every one of them is having challenges around recruitment.

**Mr Delargy:** Thank you for that. That brings me to my next point. Will you provide an update on the progress that has been made since the report on procuring a replacement for the eTenders system was published? I would like a wee bit more information, if you can provide it, on the reasons why, you think, that did not go to plan. How can we ensure that that does not happen again?

**Mr Gibson:** I will let Sharon speak about the progress on our extension to eTenders. The important thing there is that there are data fields that have not all been completed for lots of reasons. That goes back to the point that we made earlier: with the right transparency guidelines and policy requirements, we can move to a space where it is a requirement to complete the data that we need, once we are absolutely certain about what we require. Sharon will speak about the actual contract, which we had been looking to replace, as we have now extended it for another four years, I believe.

**Ms Smyth:** Michael is the expert on eTendersNI, Pádraig. One of the biggest changes under the Procurement Act 2023 will be a single portal for suppliers to put their information in. We will working closely with our current supplier on an application programming interface (API), which is an interface between that system and our eTendersNI system. It was difficult for us to go out and procure something that was completely new, not knowing what way the Procurement Act 2023 would go. We have a contract with the same company and the same technology through a Cabinet Office contract. That was fortunate for us, because we did not want to procure something new when we really did not know what the platform was going to look like.

That gives us an opportunity to take stock of the exact reporting requirements that we need for any future system, but it gives us a four-year breathing space. The cost is modest, and, again, with budgets constrained, we want to make sure that we maximise the benefit and minimise the cost of anything that we try to do in this interim space.

Some of the organisations that use our central procurement expertise have a purchase-to-pay system. We do not want to replicate something centrally that they already have and have invested in. As Neil said, we are trying to find out what information is critical for the Executive to understand how everybody is performing and then get that from the current systems. We will have eTendersNI for another four years, and hopefully, by that stage, we will have a stable transition period with the new regulations, which will give us opportunities to see what we need.

**Mr Delargy:** That is great. I want to touch on two short points. I appreciate that you have already gone into a bit of detail on vacancies. Do you have a rough idea of how many vacancies there are in the procurement directorate?

**Mr Gibson:** Yes we do, but, as you have probably gathered by now, on a point of such detail, I look to Sharon to answer it. As I mentioned, there is great concern about the vacancy issue, and it is starting to creep into almost all levels. We have some information on that, and I will hand over to Sharon in a second to provide that. It is no longer a case of simply saying, "If we could just get adverts out"; it is becoming harder and harder to get people to even apply for the jobs. The vacancy rate not only

reflects that somebody has left or retired; it is a signal that we will have to do quite a bit of work to make this a job and a sector that people want to work in

**Ms Smyth:** In our centres of procurement expertise, we have 125 staff in the construction division and 35 vacancies. We have 43 staff in the supplies and services division, and we have eight vacancies there. I did a trawl across all the centres of procurement expertise. I do not have their data off the top of my head, but all of them are carrying vacancies. The largest vacancies are in the Department for Infrastructure. When you look at where the biggest spend areas are, you see that they are in the Department for Infrastructure. Its centres of procurement expertise are probably suffering more than others.

**Mr Delargy:** You have answered my second question anyway. From a constituency perspective, I have seen those gaps at first hand. That is what we hear.

I am keen to get that other data, if that is OK with you, on those sectors. I appreciate that you will not have it all at hand, but it would be really useful for us to have comparative figures. If that information could be sent on, it would be really useful.

**The Chairperson (Mr McCrossan):** Thank you, Pádraig, and thank you, Sharon and Neil, for answering those questions.

**Ms Forsythe:** Thank you very much. I want to jump back to some of the questions from Tom Buchanan and Pádraig on capacity and capability. How confident are you that the capacity and capability issues that have been mentioned can be resolved within the current procurement structures in the short to medium term?

**Mr Gibson:** The honest answer is that it causes me great concern. We are looking at the attractiveness of posts and our ability to find other ways to deliver. That is happening across the jurisdictions. I know from the data that it is not a matter of advertising; we are just not getting the people. That means that we have to look at remuneration and conditions and the roles and specifications. We have to find ways of making it attractive and of training our own. Training our own is not a short-term answer.

The situation is of huge concern to me. Going back to some of the previous points, it makes it incumbent on us to think about sharing resource where we can and being more fluid and flexible about that. I am not confident that the problem will be easily solved. In fact, across other parts of the public service at the minute, my number-one concern is making it a sector that our young people come running towards rather than one that they do not even hear about. We have a lot of work to do to improve that.

**Ms Forsythe:** Thank you. It is important to have that on record, because vacancies in critical roles across the Civil Service are creating a lot of pressure. I know that from listening to a number of Committee meetings.

I will move on. Data and transparency were key themes in the Audit Office report. The report details the absence of a regular flow of timely, high-quality data from the COPEs and contracting authorities to the Procurement Board over many years. Why was that tolerated and allowed to persist, given the huge spend in this area?

**Mr Gibson:** That is a fair and reasonable question. Certainly, we look at the complexity of providing the data. I would have thought that it was more straightforward. As Michael said, we have been OK at measuring the money going out for contracts that we have issued, but we have struggled much more due to people saying, "We have our own system", "We pay it in a different way" or "There's no consistency with that". The measurement of that has clearly not been where it should be, but the themes of transparency and the publication of data are throughout the new Procurement Act 2023. I cannot promise anything, because I do not know what will be in our new strategic guidelines, but it is highly unlikely that transparency will not be in them, given the importance attached to it everywhere else. That will make it a different requirement for governance. With the new procurement notices, we are a little more succinct on what we ask for, which will allow us to set requirements for the information that we get. Is that fair, Michael?

**Mr Watson:** Yes. In answer to your question, one of the difficulties that we have had is that, because they do different things, the centres of procurement expertise record different data in different ways to suit their own purposes. We have always had a difficulty in getting a consistent data set. The question that the report is hinting at is, as Neil said, what the data set should be in order for it to be analysed and to set a strategic direction for procurement. We need to sit down with the new Procurement Board or a new forum and agree that. Once we get the data set, we can encourage people to start recording information in a format that can be bagged.

As Neil also said, transparency is one of the thrusts in the new Act. Organisations will be required to publish a huge range of data that they have never published before. I hope that that data will become readily available and that it does not become a chore and require a manual exercise to collect it.

**Ms Forsythe:** Thank you. I sit on the Finance Committee, Michael, and you briefed us in detail about the new Procurement Act. I understand how it will simplify a lot of those things and that there is a lot of hope. I return to my question about the fact that the situation, in which such poor information was coming back, persisted for so long. Were no questions added to this about common-sense checks? That is a real frustration on the ground. All of us, as MLAs, hear frustrations from the end user such as, "I have had to use the COPE", "I have had to use the award", and "I have had to pay £10 for a Sellotape block that I can buy in my local supermarket for £2.50". There will be the legislation, but I worry that the process is overcomplicated. At the end of the day, procurement comes down to buying goods at the best price and in a way that the end user can understand. Will you build those common-sense checks into policies in the future?

**Mr Gibson:** Very much so. Getting that balance right is critical. The new Act tries to speak to greater flexibilities and less bureaucracy and, at the same time, more transparency in reporting. We are looking at appropriate levels of reporting and whether they are over certain limits or what is required. Also, it seems like a simple thing to ask for, but organisations classify different stages in the procurement in different ways. Absolutely, one of the most critical things here is getting a painless way to provide the level of proportionate reporting.

I think of my role as an accounting officer. I have close relationships with my COPEs, so there would have been that level of scrutiny in Education, Health and Infrastructure for their COPEs. There is another reporting mechanism there. Clearly, the Procurement Board had its focus on driving social value and decluttering the policy landscape. It had a finite bandwidth, and those were obviously the most pressing issues at the time. That level of complaints from constituents through MLAs would come, rightly, to the accounting officers, each of whom would have responded in their own way. We certainly have done that in our area, where we have had critiques about very particular things. I do not know how many times I have come down to Sharon about a specific question and asked, "Look up that contract for me. Get me the answer to that as quickly as you can". Each would have responded, but I absolutely take the thrust of the question. The easiest thing to do is record everything — as a lapsed economist, that is always my natural tendency — but that will become onerous and counterproductive. Getting that balance right will be critical in the new systems and processes.

**Mr Watson:** To come back to the point about the roll of Sellotape, you are absolutely right. One of the thrusts of transforming public procurement is to shift it from a process-focused role to a more commercially driven one. That is to make sure that we get the roll of Sellotape at the right price; manage risk in the right way and apportion it in the contract; and are not afraid. The flexibility is coming in October to enable us to drive that home. As Sharon said, the toolkits that we published two years ago are full of the best commercial practice, including how to proportion risk and assess it, how to do payment mechanisms and how to get the best deal out of the market. We hope that people will now have the flexibility, with the change in the law, to fully embrace those toolkits and change that culture.

**Ms Forsythe:** Thank you. You have noted that, in the current format, there is not really a coordinated approach across the public bodies, but you hope to build one in, so I will not ask anything more about that.

You have estimated that about 25% of the resources available to the Northern Ireland Executive are used for procurement. It is absolutely essential that we have quality data available to monitor performance. Will you explain how the performance is monitored effectively in the absence of that information? Are KPIs set and monitored? How is that reported?



**Mr Gibson:** Each COPE will have its own reporting for each contract; for example, we have our own KPIs in monitoring. As I said, we also have a business case and, for those bigger procurements, a mechanism for authorising the expenditure on the back of the information in the business case. Certainly, in our COPEs, we have a set of KPIs against which we monitor, and each of them will have their own methods of reporting.

**Ms Smyth:** I mentioned the COPE accreditation process that happened until 2018. That was replaced by self-assessment, but the biggest monitoring arrangement that we could see was the transparency of the reporting. In 2020, every PPN had a monitoring requirement, which did not happen previously. It was felt that, if you get out to the public how many contracts are being reserved and how many have been grant-funded around the procurement, it would almost be, as Michael said, that civic society would tell you that they are doing something wrong. The frustration, as mentioned in the report, is that, sometimes, people say, "Procurement stops us doing that", but there is nothing to stop the Education Authority delegating a limit to schools for buying their stationery. That is a decision for the Education Authority. I am sure that, with the Executive back, the focus will be on that. Those are the complaints that we hear, but it is not procurement that prevents that; it is the policies and practices in certain organisations. It comes back to risk aversion. If we aggregate it all and everybody has to buy the same thing, it is not about how much are we paying for it.

The other thing is to move away from the principle of lowest price, because that is not how money is spent in the public sector; it is about best value for money. You have to consider sustainability, miles travelled and all of the environmental elements and make sure that modern slavery has not been involved. It is about all of the things that wrap around a contract. You will not buy the cheapest, but you will ensure that people get a fair wage and work in a good environment. All of that comes into consideration. Probably the biggest difference between public spend and private spend is that there is extra social, environmental and economic consideration with public spend.

**Ms Forsythe:** You spoke about staff vacancies. I think that over 160 staff in your Department are working on procurement, so, across all of the Departments, a lot of staff are working on procurement tasks. The cost of procurement to the Civil Service is significant. In respect of COPE performance, the Audit Office report notes that work was ongoing to develop a new balanced scorecard model to report on and capture the money spent by the Civil Service on delivering centre of procurement expertise services and to show the value that has been added. How has that progressed since the publication of the Audit Office report?

**Ms Smyth:** I can speak only about how my COPE makes sure that we are as efficient as possible. We do time activity recording. Every hour that you spend on a project, whether it is pre-tender, tender evaluation or contract management, is mapped out. For the likes of DOJ, we will invoice them for the services that we procure. We operate on a cost-recovery basis; there is no profit. The cost of procurement for all of the Departments are the operating costs for CPD.

We talked about the helpful definition in the NIAO report. Procurement is when somebody says, "I need to buy something. I can't do something in-house". The person who specifies the services carries out the pre-market engagement. Economists are involved in that. That is the end-to-end cost of buying something. You are right: we need to be as efficient as possible. Layers of bureaucracy or, in order to be sure, getting somebody to check the work of somebody else add cost throughout the system, but we are as transparent as we can be on the pure cost of procurement.

Sometimes, I get frustrated when there is a room with 17 people in it and two procurement people. We know the cost of our time because we have to go back and input what we have done during that time and how much it has cost. There is not the same culture across all Departments. We can certainly be very visible in our time. 'Managing Public Money' has a charging framework, so it is clearly audited as well. As Neil said, the Audit Office came in to look at the supplies and services division, including how we charge and customer satisfaction, and there were no issues. When I was head of the supplies and services division, I met my key account managers every six months to show them what we had done for them and how the costs had decreased. You are right: there have to be KPIs and an eye not only on what we buy but on what we cost. We are very transparent in that regard.

**Ms Forsythe:** As has been said, you can report only on what you do in your own COPE, but, where you are doing things such as that, with transparent time and efficiency reporting, others should be advised to roll out the same model.

The Federation of Small Businesses submitted written evidence to us regarding concerns about the prompt payment of public sector contracts. A report in 2022 noted that more than 234,000 invoices were not paid within the legal requirement of 30 days. I am concerned about that. A lot of small and medium-sized businesses in my constituency come to me all the time because they cannot get on board with the public sector contracts for a number of reasons. That is one of them. If you are a small or medium-sized business, that would mean being out tens of thousands or hundreds of thousands of pounds of your own money before it is paid back by the Department. You would be off the table straight away. You would not get a business loan to back you up for that. Often, however, those small and medium-sized local businesses provide better priced services in a locality, especially in a rural area such as mine in South Down. Another point that came through in the report was that, although the smaller, better value-for-money providers are getting priced out of the market:

*"Data is also insufficient to allow creation of an equivalent Private Sector Prompt Payment Scorecard for NI at this time".*

Why is there such insufficient data on that that we cannot take that forward as an action point to widen that field?

**Mr Gibson:** Colleagues will come in, but I do not recognise that number, I must say. I get data on prompt payments from our point of view. I do not know whether that includes local government or exactly what is being referred to, but I get data and information from nidirect, and we have incredibly stringent targets on 10-day payments and 30-day payments. If you are agreeable, Chair, I will provide you with some of the latest information that we have on prompt payments. I do not want to say that that number is incorrect, but it is not a number that I recognise. We made the point earlier that you judge it on the queries and questions. I have been in for a few years now, and I have definitely had a few queries about different things but not about prompt payments. It is not a concern.

**Ms Forsythe:** That is a 2022 report, and it reports that all nine Departments were missing out, as were all 11 councils and all of the trusts. I will happily share the report and the details in it. Just because you are not getting complaints about an issue does not mean that it does not exist.

**Mr Gibson:** I do get reporting on it, and —.

**The Chairperson (Mr McCrossan):** They have given up trying.

**Ms Forsythe:** That is the point that I am making.

**Mr Watson:** I remember the report. I went to an event with FSB on it. Each Department publishes stats on its performance, and they show that it is around 95% to 98% in most Departments apart from one or two. The issue may have been with how that money goes into the supply chain further below the Department paying. I think that the numbers from the Department were quite high. I know that FSB would like to have seen it hit 100% of payments made within 30 days.

**Ms Forsythe:** That is the industry standard. It is 30 days, and there is a shared service payment system in the Civil Service that should be kicking that out within 10 days. That is not an unreasonable expectation.

**Mr Watson:** The report reflects that the majority of payments were made within 10 days and, in some cases, within five days. I am happy to look at it again.

**Mr Gibson:** We will provide the latest information on that.

**Ms Forsythe:** I appreciate that. Thank you.

**The Chairperson (Mr McCrossan):** Good question, Diane. Thank you for taking those questions and for agreeing to offer that information to the Committee.

**Mr Gildernew:** Thank you for the responses so far. The Audit Office report notes that there is an intention set out in 'New Decade, New Approach' (NDNA) for review. We have touched on the changes made since 2020. Conor Murphy initiated a number of those changes, including the social value policy and the supply chain policy. What impact have those changes had to date?

**Mr Gibson:** A significant impact. We will get our COPEs report in a few weeks, which will give us the latest figures. They have had a significant impact on the social value side. I will let colleagues speak to the specifics of that, but the report speaks to that need for the review.

*(The Deputy Chairperson [Ms Brownlee] in the Chair)*

As I have, hopefully, clearly outlined, we have taken a little pause to reflect on exactly what that review should cover because of the concern that we might review and focus on the structure of the Procurement Board without knowing what the strategy was. We are taking a bit of a pause, but that will certainly be coming through in the autumn. Sharon, you are closer to it and will know the significant impact that those changes have had.

**Ms Smyth:** Yes. There are four themes in scoring social value policy, including the environment, employment and resilient supply chains. The other one is not coming to mind. On those, tremendous work is being done. We have over 3,000 placements, but the biggest impact is with social enterprises saying that they are now able to get into the supply chain. Before, they were knocking doors, but now people are begging them to work with them. One of the disbenefits that we have seen is that microbusinesses say that it has made it potentially more difficult to get a foothold. That is why it is really important for us to review the policy and make sure that there are no disincentives there.

I have a full list, which I am happy to provide to the Committee, of the benefits of the social value policy. However, more can be done on reserving contracts, and one of the themes that are probably not as well used is the net zero theme, which is the environmental one. As climate becomes more of a critical issue on the goods, services and works that we procure, that is one that we will probably want to focus on. I think that I heard reports today about there being almost full employment; our unemployment figures are really low. Some of the supply chain will say that, if they do not have the surety of a pipeline — this come backs to multi-year Budgets — it is difficult for them to bring apprentices on without that guaranteed work going forward. There is definitely work to do, and I think that it has been reported. I read a journal that said that, in Northern Ireland, the way they have done their social value is more impactful than it has been in other jurisdictions. It is a really good start. It is not the end of the journey, but it certainly has been a *[Inaudible]* start.

**Mr Gildernew:** Given that the start was to put it into the score matrix at 10% with a view to making it 20%, what plans are in place to get that further benefit from moving to 20%?

**Mr Gibson:** The right reason to review the policy. We are taking evidence and consulting, as it is a mixed picture whether it is the scoring and the percentage that makes the difference or whether we are utilising the current framework as well as we might. We have also seen suggestions that having that as a requirement acts as a disincentive. We want to be absolutely certain, and, in the absence of Ministers, I certainly decided to keep it at 10% for that time. It would require a ministerial decision to change that. We are reviewing it and seeing whether it is the percentage that drives the behaviour. As Sharon said, we have probably had a stronger uptake around the areas of employability than we have, say, around — it may be that the issues lie as much in education and supporting businesses to avail themselves of the current metric than it might be in going up to the 20%. There is a kind of mixed picture at the minute, and we are reviewing that to provide the information for the Minister, who will look at that procurement notice in a review.

**Mr Gildernew:** OK. Thanks for that. You outlined that there are significant plans for future changes and that they are not that far down the pipe. How will those plans ensure that they align with economic strategy? In particular, I think about regional balance. I am not speaking only about fairness, although that is an important issue, for companies in regions like mine west of the Bann, where we have world-beating small and medium enterprises. How do we leverage their expertise into the procurement process to benefit society here and the economy in general, as well as ensuring fairness? How will procurement align with that?

**Mr Gibson:** There will be an important conversation about what those strategic themes are. It is always important to think about those businesses and make sure we have local suppliers — 20% going to microbusinesses at the minute is important. However, as each of those businesses grows, they often want to export and expand. They are looking to compete in another area, so it cannot be as simple and as straightforward as procuring by locality. Where locality can come into its own is particularly in things around the environmental and the green aspects where cost of travel and cost of distance come in. There is an important evolution of the strategic direction as to what it means to allow procurement to make the maximum advantage that it can. The important dilemma that we often see is

that we look to our businesses to be as successful as they can and to export or to compete for other people's tenders. We laud the success of them winning contracts in other procurement areas, so you cannot preclude that in the other direction.

**Mr Gildernew:** That was my point. We have a preponderance in our area of small engineering businesses. I come from that sector. They sell all over the world. They do not think about public procurement here because they just see themselves as having been locked out of it, so they do not engage. We are missing out on that value.

**Mr Gibson:** An incredibly important piece of this will be if we go through — there is no journey of simplification or of greater transparency. With the wrong communication of that, it could seem like it is more bureaucracy, so there will be a very important communication and education piece about, if you want to be glib about it, doing business with public service. If we are to get more people to compete and get people to work in the service, it is sometimes as much about communications and image as it is about the policy frameworks.

**Mr Gildernew:** That leads me neatly on to, hopefully, my last question for now. To what extent were the changes made since 2020 designed and implemented in collaboration with all relevant stakeholders, as opposed to being imposed on them? It is crucial that the stakeholders who are not currently inside the tent but who need that extra support are encouraged to come inside.

I will also touch on the point you made, Michael, about performance of the contracts. I have found that winning a public contract is challenging — I have some direct experience of that — but can be done. Often, however, the performance of the contract, not in terms of getting the contract delivered but in terms of the business getting the value out of the contract that was flagged up — just with inertia or a company, at times, there is almost a sense that people just wait until the next tender and until their preferred contractor comes back on the list. How have you managed the engagement with stakeholders — I include the FSB — where small businesses can collaborate?

**Mr Gibson:** We made sure that changes in the political circumstances did not hamper that. We have continued full engagement with stakeholders across business organisations but also in the conversations that we have with local government colleagues and in heads of procurement meetings. We continue to have as proactive a consultation process as we can, keeping all stakeholders fully involved in what is happening with reviews, procurement boards etc.

One thing that remains a challenge — I do not have an answer to this, I am afraid — is making sure that we get to all the people who feel frustrated and excluded. Not all of them are members of organisations, and that requires a rather more sophisticated communications approach where we need close collaboration with, for example, local government partners, even though it may be about talking about central government contracts and not local government ones. There is work to do on that, because the communication network can become a little too narrow. Each of those organisations has, encouragingly, been driving up their membership. That is important, because it is difficult for us to respond to every query or question. Communicating the new strategy will be important and that communiqué about being easy to do business with.

**Mr Stewart:** Thank you for your answers. You will be glad to know that I am probably the last, so I thank you for your patience, your indulgence and your answers so far.

Before my three official questions, I want to pick up on Diane's point regarding timeliness of payments. There is a discrepancy between what the FSB says and where you, Michael, think we are. It is lamentable that any Department cannot pay small and medium-sized businesses on time. There is no cash flow issue, so I cannot get my head around how that could be the case. If it is even only 3% or 4%, that is still a significant chunk. It would be good to get a breakdown — even after this, in writing — about why and where those issues are happening. In local government, I get frustrations from microbusinesses that cannot get paid £300 or £400 at times for weeks or months on end. That is totally ridiculous. Can we get that breakdown?

**Mr Gibson:** We will certainly get that data. I have no doubt that that data is correct. We can give you the latest data, what refers to central government, and maybe give you a flavour of why there are sometimes disagreements over invoices, prices, technology issues etc. We will certainly come back to you on that.

**Mr Stewart:** To tease out a point, you said that it might be further down the chain. Is that subcontractors potentially passing it on to further subcontractors?

**Mr Gibson:** Exactly.

**Mr Watson:** There was an issue two years ago, and I remember speaking to the FSB about it. NICS Departments' prompt payment is very high at over 90%. There is always the odd disputed invoice. We benefit because of the automation of Account NI, where the purchase order is set up, so, when the invoice arrives, it is a straight match and it is out the door if it is approved. There is no interaction. The health service has a fairly good payment system in its accounting system. Education should be the same. When you get into local authorities, I have no experience of their accounting systems or how much automation there is of the invoice. You can get cases where an invoice came in on paper, got lost on somebody's desk and did not go anywhere. A percentage of invoices will always be disputed, as Neil said, because a supplier has put in an incorrect amount; that can upset it. We have a high percentage at around 95, but there will always be invoices that are disputed for some reason. It could be an error in the invoice or something like that.

**Mr Gibson:** It could be at our end. It could be that a number does not match the number that we were expecting. We have to be careful with our rules to make sure that we pay only for what is done, not work on account. Some are very particular, and sometimes you have to query an invoice. That will always be the case, but it is a fair question, and we will make sure that we get you the updated figures.

**Mr Stewart:** Thank you. We all welcome the fact that 20% goes to microbusinesses here and that two thirds of procurement funding goes to Northern Ireland-based businesses, I think you said, Neil.

**Mr Gibson:** It is where their registered office is. That is probably an undercount, because some businesses are not registered here but may well have a presence here. That two thirds is not a precise figure, and about 20% is with microbusinesses.

**Mr Stewart:** I would be interested to get that figure, because my focus would be how we get three thirds of it coming to Northern Ireland companies. From a purely selfish Northern Ireland-first process, how do we get as much as possible? Are the majority of contracts that do not get awarded to Northern Ireland businesses because they cannot fulfil them or because people outside Northern Ireland are tendering in a more beneficial way?

**Mr Gibson:** It is a mix. There are some that are very specialist, and there are very few companies that supply them. We have also heard of the example of certain services and goods on which the biggest profits are not to be made by providing them to the public sector. Many firms outgrow that and go into different markets, and they are more interested in an export market or they may have a different client. There may not be an easy local backfill for the services or goods, so there could be a gap in the market that might take time to fill. There is always a sense in which success is elsewhere, and that is not necessarily a bad thing, because it requires your local businesses to meet that level of competition, saying, "If I am going to win, I need to be better than that". Then there are some things around software licences and all sorts of other procurement that we simply do not provide locally or materials that are just not produced locally. The reasons why that is the case are a mixed bag, and for that reason I do not think that we will ever reach three thirds. We may need materials, products or services that it would never be feasible to produce locally, such as the design of a software solution or a particular material or component that cannot be sourced here.

It is really important to encourage more people to want to sell. That goes back to the point about making sure that we are clear about how easy — and getting easier — we are to do business with. It is also about positive news stories from other businesses that can almost do that advertising for us.

**Mr Stewart:** OK. You talked about the new practices and the changes that have been implemented. Has there been significant resistance to any of those new practices from any COPE, significant authority or external supplier? How was that overcome?

**Mr Gibson:** I do not get involved in all the detailed conversations, so colleagues will be better placed to speak to that, but our openness and transparency has meant that there have been some very frank conversations about some of the more complex changes that we have looked to make. The greatest

restriction comes from the fact that we have skills shortages. When we engage with COPEs, or indeed suppliers, and we ask for more material, they say, "We are on our knees, we do not have the staff, and you are asking for more". That is why we have to be very particular about what we ask for. Any difficulties with agreements or in collating information have been more to do with, "We simply don't have the resources" or, "We have a different payment system, so we can't get the data in that way".

There has been frank and detailed debate and open conversation about the policy direction, however, and, since the Minister has been in post, she has been keen to meet the organisations that want to meet her. You have certainly continued to do that during the period when —. As with any form of change, there will definitely be nervousness about the new Procurement Act and what it means. There is a strong requirement on us to have a proactive stakeholder engagement period in the coming months, because that is probably the biggest change in procurement in a very long time, and that in itself will create nervousness amongst organisations.

The period when our systems were down for updates is a good example. There was a little critique of that, and we quickly engaged fully with the FSB. We developed a good working relationship there, and we got it to help communicate and to communicate for us why that had to happen and how quickly we were doing it, because the FSB has a level of communication with business that we will never be able to reach. There are areas of disagreement — no doubt about that — and there is great nervousness about the construction toolkits coming in, but, in the main, it is a healthy discussion.

**Mr Stewart:** That leads me into my next question about the implications — you have all touched on this — of the Procurement Act. Can you summarise in a couple of points what the impact will be? What work has been done to prep public bodies and suppliers for the upcoming changes? That will be key.

**Mr Gibson:** I will let Michael speak to that. It has been a hugely important area for us; I cannot overstate it. I do not want to say that it is a perfect storm, because that is a bad analogy [*Laughter.*] Yes, give me something nicer than that, Michael.

**Mr Gildernew:** An ideal tempest.

**Mr Gibson:** Drinking my seven litres of water has drained me of my creative mind. We have a real coming together of factors here, with, potentially, a new strategic direction, a Programme for Government and the Executive back, all at the very time that the new Act is coming in. It is substantive change, and, without the right communication and without our doing the engagement, there would be a nervousness about it. Michael can speak about the training and engagement that we have been doing to get the COPEs ready and to talk to stakeholders.

**Mr Watson:** We have been engaging on that since November last year — as soon as it was published. We have had a number of webinars. A lot of the information that has gone out has been managed by the Cabinet Office, because we want to keep up a consistent message to suppliers in all jurisdictions. We have done that consistently. It has been out there. At eTendersNI, we have the facility to shoot messages out to all suppliers who register, which is up to about 37,000. We are constantly updating it. It is up to the supplier how much they take into that. We will do a further, more targeted programme of engagement, because we are working on the final pieces of the digital technology to support the Act. That is where all the transparency notices and data will go. We are also changing the functionality of eTendersNI and, when we are clear on the final position, we will want to go to suppliers and tell them, "These are exactly the changes that you will see. You may need to go and get a new ID number from the new portal and pump that ID into eTendersNI." There are a couple of other bits and pieces around that.

Changes-wise, apart from those registrations and numbers, the big change that the suppliers will see is that they will have a portal in which to store an awful lot of information that they are consistently asked to provide during procurement processes across any public-sector body. They will be able to store that information in the new database and give it to any authority that asks for it without having to do very much. Apart from that, suppliers will not see a significant change. Their elements relating to procurement will remain the same. They will be asked to provide the authority with some information, give us a price and put it in a secure electronic envelope. That will remain the same. The changes on the public-sector side are probably more beneficial to the supplier. I knew that, hopefully, you would support this. Suppliers have felt that we do not engage with them enough during the procurement process. The new Procurement Act will give us the flexibility to engage in a lot of different ways and to run procurement processes in a lot of different ways to suit different markets and levels of

engagement. I hope that suppliers will see the benefit of that — of being able to give us a better-prepared tender offer, a more commercially focused offer, and of going into the contract being more aware of what they are being asked to deliver. I see benefits coming in that way.

On the communication side, we will be carrying out a targeted communication exercise around the end of June.

**Mr Stewart:** That is reassuring. Particularly for a lot of microbusinesses, there is a fear factor. They look at some of the documents and think, "You know what? That is just too much effort." They have enough going on. They maybe get used to one system, and then see something new coming in and think, "Not again". For the most part, it sounds like it is not going to be —.

**Ms Smyth:** There is one thing in the new regulations that was not in the others, which is the requirement to have regard for SMEs. That is now a legislative duty on contracting authorities. That means that, if you are coming up with something complex, you need to consider how long it will take an SME or microbusiness to complete the tender. Someone who has a bid team and all the resources available to them could potentially do it a lot quicker than an SME. That changes the differential for treating everybody the same and makes sure that there is now a legal duty to have regard for SMEs. If you perceive any barriers, you have a duty to minimise those barriers. That is a clear signal in this set of regulations. They also talk about maximising public benefit. Again, that was not in the old regime, but it is in this regime. The duty is on us, as procurement professionals, to make a difference and make sure that SMEs and microbusinesses see the difference.

**Mr Stewart:** I think that is key. Our economy is made up of 99.5% microbusinesses and small to medium-sized enterprises, so it makes sense to have a procurement system that is tailored to their needs. That is reassuring.

This is my final point. No one does anything perfectly, and I am interested to hear what is being done to monitor other areas around the world for best practice. What can we learn from other areas, and how do we track that?

**Mr Gibson:** It is very important that we do that. We are looking at other jurisdictions and have regular engagement with them, but it is also about looking at what is proportionate to us. Given that we are, in some senses, the size of a county council, large jurisdictions are not always the best comparator. That is why we have our own flexibilities and provisions. That is why, as you said, we make sure that the system works specifically for a place of this size and structure. We are trying to make sure that we do not reinvent the wheel where we do not have to, and we try to use existing systems and expertise where we can. We are cognisant, however, of our methodologies. We have regular engagement with our colleagues and close engagement with Cabinet Office, other jurisdictions and local government. We make sure that we keep that up, but also that we are not afraid of being the leader. It is not always the case that, if someone else has done it, it will be OK. This place is unique, so we need to tailor our offers in a unique way.

**Mr Stewart:** Thank you for your time. I appreciate it.

**The Chairperson (Mr McCrossan):** You have been quite optimistic about the changes and improvements that you expect to see. How will you measure those to ensure that they are successful?

**Mr Gibson:** You have to be optimistic in this job. It goes back to that transparency in reporting point. There will be a wholesale look at what sort of board, governance and accountability is required and at what reporting can be put in place. That will give us information that we did not have before to allow us to do that. Having a more empirically based system will allow me to see across the system a little better than I currently can.

We have a very engaged profession. When you have a lot of vacancies and problems, people feel a sense of camaraderie. There is a little bit of enthusiasm about the fact that there will be new structures and new ways of doing this. Can we do anything now to make it a little easier? We have strong engagement with the new subcommittee of the board. There are significant reasons to be optimistic. The reason I say that is because of that bringing together of a load of factors at the one time. When the Act comes in alongside a new strategic direction, it will rebuild enthusiasm across the sector, because you can start to put out new documents and materials and say to people, "Look, we are easier to do business with, and we are an attractive place to come and work". Those are the two priorities for me as accounting officer.

**The Chairperson (Mr McCrossan):** OK. We have Diane and Colm, briefly, and then we will conclude.

**Ms Forsythe:** I just want to build on a question that John asked and to which Michael responded. It was about the new legislation and the communication about the new eTendersNI. You addressed the steps that you take to communicate with the bodies and existing suppliers. Have you taken any steps around planning for communication with people who are not existing suppliers? I refer to my point about the perception of it being a closed shop. Have you prepared, or will you prepare, any communication to say, "We are doing something new. It's easier and more accessible, and it is open to everyone", so that those who feel that they cannot use the current system for whatever reason know that you are doing something a little bit different now? If you have not, I encourage you to consider that.

**Mr Watson:** It is a fair point. We do our best on that. We are working with Wales and England on it. We have a huge email push out of that system. Every time there is an update, it is sent to anybody who is registered. We encourage registration on the system. I talked about pushing through eTendersNI. That is my main medium for contacting suppliers. I have 35,000 registered there. Over the last nine years, we have had a programme whereby we and our partner groups, like InterTradelreland, have pushed everybody to register, even if they are not interested, because eTendersNI is designed to send an alert to the companies every time that a tender is published against a certain code. I think that that is why we have 35,000. Other organisations such as InterTradelreland do some of the communication work for us. Outside that, there is not a medium whereby we can get to potential suppliers who may be interested but who have never expressed an interest with us before. We do not have that range.

**Ms Forsythe:** Would you consider doing a wider, one-off communications piece? If there was anything available, I would happily push that out and boost awareness of it in my locality. When you do something new like this, you need to think about how it is going to be communicated and how to put a positive spin on it to open the door to small and medium-sized businesses. I always refer back to the rural areas of South Down, which may not directly link in to a lot of the organisations that you have mentioned, because they are not registered on these email chains. They feel that they do not have that chain. Is there anything that we, as elected reps, can do around a wider comms piece that says, "We are doing something new. Please get involved. You can access these services too"?

On my point about the likes of Sellotape, we get that often. We get it with gardening services at our local schools. We have local providers who do not know how to get on to the system. Is there anything that we can do on comms as we move forward to a new system? Cathal is laughing at me, because I am always beating the local drum.

**Mr Boylan:** I can see the last paragraph of our report — I can see it. South Down, boy, South Down.

**Mr Gibson:** If there is not Sellotape on the front cover, I will be shocked.

**Ms Forsythe:** We have a really good opportunity here to reach out to new people, get better value for money from public spend and open the door to people who can deliver quality services at a local level.

**The Chairperson (Mr McCrossan):** That is a good suggestion.

**Mr Stewart:** Just on that point, for me the key organisation is Enterprise NI, which represents all the local enterprise agencies and over 100,000 small and medium-sized enterprises. If something could be fed through it, that would be really worthwhile.

**Mr Gibson:** We will take that away, absolutely. That is a very good suggestion. The FSB, Enterprise NI — once we get things working, we will certainly make sure of that.

**Mr Watson:** We will get there.

**Mr Gildernew:** When John was asking his question, it occurred to me to ask about horizon scanning. John was talking about other jurisdictions. How are we scanning the horizon in terms of emerging technologies and their potential to be disruptive, either positively or negatively? AI is the obvious one, but what about quantum computing? Are we looking at all of those things at present?



**Mr Watson:** Yes. Artificial intelligence is something that has been raised over the last year with all the Administrations coming together. We have what is called a common framework agreement, with all the nations coming together to discuss policy emergence. AI has been a particular concern in procurement because we know that there is the capacity for authorities to put tender documents out and for companies to use artificial intelligence to identify the perfect answer. The Cabinet Office has recently published a policy in order to ensure that tendering organisations are asked to confirm any software that has been used to develop the answer and how much of the response has been AI-generated, so that they can become aware of it. We will have to do something similar on that here.

Sharon can probably say a bit more about this, but we probably have a little bit of that going on without AI, where you have bid writers trying to help out small businesses and selling some parts of tender responses to different organisations. The next thing is that you get tender responses in with similar answers as well. On the technology front, that is one aspect. The other aspect that I have been looking at recently — Sharon has touched on it — is a future replacement for our current e-tendering system. We are watching the market carefully in that regard. From the analysis that we have done with the other jurisdictions in the last couple of months, we are down to about three systems, because one of them has pulled out of our market.

**The Chairperson (Mr McCrossan):** OK, thank you. Members, I am conscious of the time. You have been extremely — is this one sentence, Cathal?

**Mr Boylan:** Just a little one, Chair. There are two comments that I want to make. Staffing is a big issue, and we need to look at that across the board. Sharon, you used the phrase "have regard for" small and medium enterprises. Do the regulations say "must have" or "may have", or is there just a duty to "have regard" in the legislation?

**Mr Watson:** It is a "must".

**Mr Boylan:** It is a "must", is it?

**Ms Smyth:** It is "shall", which is a must.

**Mr Watson:** If you have not taken due regard, you will have to state in the notice what action you have or have not taken.

**Mr Boylan:** That is vital wording.

**The Chairperson (Mr McCrossan):** Thanks, Cathal. You will be glad to know that we are nearly done. You have taken questions from us for just over two and a half hours. Thanks very much for your patience and for answering the many questions. Does the Comptroller and Auditor General have any points that she would like to raise?

**Ms Dorinnia Carville (Northern Ireland Audit Office):** No, thank you.

**Mr Stuart Stevenson (Department of Finance):** I have one brief comment to make, Chair, in relation to a question from Mr Buchanan. He talked about getting contracts to come in within price. I am looking at it through a slightly different lens, but it is important to reflect to the Committee the Department of Finance's role in approving all expenditure and, in particular, the outline business case that Ms Forsythe talked about. This is a supplementary point, but there is a standard condition of approval with DOF of 10% within the costs set out in that outline business case. That is a long-standing convention. I always think that that is an attempt to keep control. If a project is spiralling beyond that 10%, that approval falls, and the Department in question has to produce an addendum explaining why the cost has risen and then to reflect whether the recommended option is still the best value-for-money case. I always think that that is an important control, which we must not lose sight of. Hopefully, that reassures members about some of the controls that are in place.

**The Chairperson (Mr McCrossan):** Thank you, Stuart.

Thank you very much, Neil, Sharon and Michael, for enduring the heat, not just in the room but from members.

**Mr Gibson:** Please do not bill me for the water. *[Laughter.]*

**The Chairperson (Mr McCrossan):** Thank you for taking questions: we do appreciate your time. We know that you are extremely busy. I sincerely hope that, in a number of months or certainly in the near future, I can share the optimism that you have. If all the things that, you say, you will do happen, we will have a great system at the end of it. I am hopeful that there will be positive change that can be easily identified and measured. Thanks very much for being with us; we deeply appreciate it.

**Mr Gibson:** Thank you very much, Chair and members: we appreciate it.