

Public Accounts Committee

Oral evidence: Contract management within central Government

Wednesday 10th September 2014

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Members present: Margaret Hodge (Chair); Mr Richard Bacon; Mr David Burrowes; Jackie Doyle-Price, Chris Heaton-Harris; Meg Hillier; Mr Stewart Jackson; Austin Mitchell; Nick Smith

Sir Amyas Morse, Comptroller and Auditor General, Joshua Reddaway, Director, Gabrielle Cohen, Assistant Auditor General, National Audit Office, and Marius Gallaher, Alternate Treasury Officer of Accounts, were in attendance.

Witnesses: Lord Bew, Chair, Committee on Standards in Public Life, Matthew Fells, Director for Competitive Markets, CBI, Ruby McGregor-Smith, Chair, Public Strategy Board, CBI, and CEO, Mitie, Bill Crothers, Chief Procurement Officer, Cabinet Office, Stephen Kelly, Chief Operating Officer, Cabinet Office, Vincent Godfrey, Director of Procurement, Ministry of Justice and Crown Representative for Serco and Ian Tyler, Crown Representative for G4S gave evidence.

Q1 Chair: Welcome. It is nice to see you again. The purpose of this sitting is really to gauge feeling and to pick your brains, as players in this sphere, about the issues that you think we should be pursuing when we deal with the accounting officers who are responsible in government for contracting out.

I will start with Lord Bew, because you have just done quite a powerful report on this. Do you think that there is a crisis of confidence in public service markets? Is that where you came to at the end of your inquiry?

Lord Bew: What we have had for over a generation now is this development of public-private partnerships. In the past two years at any rate, partly because of a number of quite well known scandals, my own committee has been taking increased interest—indeed, the Government, in the triennial review, actually revised the remit of the Committee on

Standards in Public Life to defend ethical principles not only in the public service, but also in this new world that has been created. There is, I think, fairly intense feeling and an understanding among a lot of people and significant parts of Government that there is a problem, and awareness of that problem that is perhaps more acute than it was even two years ago. I do not think there is any doubt about that at all.

Q2 Chair: How would you define it? What does it arise from? In a sense, by defining it, what has to happen to change it?

Lord Bew: It is partly because of well known scandals, which you discussed at this Committee earlier this week; it is as simple as that, but I think there are two sides to this. One is concern about the Government's own role in it. We interviewed for our document across quite a wide range of Departments, and if you are talking about the implementation of ethical standards, I do not think we encountered what you might call great clarity.

By the way, one of the interesting things is how, since our report, there have been two NAO Reports, and although it is a separate evidence base, to some degree they come to the same conclusions. In one area, our report has something quite specific to add, the Ipsos MORI polling, which gives a sense of where the public is. At one point in the NAO Reports, a senior official says, "We don't really know where the public are," or—I will rephrase that—"We are unsure precisely where the public are in these matters." It is perfectly clear that the public expect high ethical standards.

We talk a lot about defending the taxpayer, but there is a responsibility to defend those people who are in receipt of services and who in effect have no real alternative. That is what we think the crisis is. That is the context in which our report was published.

Q3 Chair: If you were in charge of managing these private sector contracts in Government, what would you do, what priorities would you pursue, to restore confidence in the ethical behaviour of these private contractors? As you say, they are delivering public services impacting on citizens.

Lord Bew: There are things that are internal to Government. For example, we have recommended that all departmental boards have a member whose responsibility is ethical awareness; that is something that is internal to Government. But we do take the view that ethical standards should be explicit in contracting, commissioning and contractual arrangements; that position is stated in our document. We do not think it has to be arduous or bureaucratic and we are sensitive to the real concerns, particularly within SMEs, about coming up with formulae that are too bureaucratic, but we do think that good behaviour should be incentivised. We are very clear that there are both things that Government can do and contractual requirements that it is reasonable for the public to expect.

Q4 Mr Bacon: Can I ask you to explore for a second this question of incentivisation for good behaviour? I am caricaturing it, I know, but my first reaction is that that sounds a little bit like saying to rowdy teenagers who often engage in antisocial behaviour, “If you are good we will give you some CDs and trainers,” which we know has happened in the criminal justice system. I think the public who pay their taxes just expect good behaviour anyway, and the incentive surely should be that, although we do not expect them to make a loss, these businesses should be trading in such a way that they make a return, an agreed profit so that we can see what it is, for the services that they provide. What other incentive is required?

Lord Bew: I understand there is a logic there. I understand that there is an argument that says that it is not necessary to deal with this by specific contractual methods. For those people who believe that, they have to demonstrate—

Q5 Mr Bacon: I am not saying it isn’t; I am asking you to explore why. On the face of it, to the common-sense person, it sounds as though it ought not to be necessary. You are saying that it is. There must be reasons why you say that. Is it because it is so dreadful that without bribing them in addition—

Lord Bew: There are reasons why we are saying it. Basically, when we carried out this research—we talked not just to heads of Department but to elements of the private sector—we did not find that there was clarity of expectation on either side, to be absolutely honest, on these ethical questions. We therefore think that if you are looking at private companies, you have to think of ways in which, for example, in promotion and recruitment procedures and so on, somehow an ethical dimension can be added into it. The reason for saying that is the number of things that we are aware of that have gone wrong. I accept—the NAO Reports and the Crown commissioners are part of this—that in some of the companies there is now a move to get things right that went wrong. I am not suggesting anything other than that, but if you are asking me for what the Committee on Standards in Public Life believes, that is it. We hope that what we are seeing is an improvement across a range or a series of activities, which will lead to a better situation.

Q6 Mr Bacon: When you say that you often found that there was not clarity on either side, are you saying that you often found that there was not clarity on the part of the suppliers or on the part of the civil service buyers on behalf of taxpayers as to what constituted ethical behaviour?

Lord Bew: I am saying that the centrality of the Nolan principles, particularly in the private sector, was not actually central. People would say to us, even in Government, “Ah yes, but we’re not quite there.” You had a discussion on Monday afternoon with the Home Office, which was partly about how it went wrong with G4S. Part of the answer was that the focus was solely on an apparent financial improvement in one particular area of activity, rather than broader questions being asked. We are saying that it is necessary to keep these broader issues—these ethical principles—always in place. That is relevant to the

Government and to the private sector. It is a question of incentivising change and of having an impact on the organisational culture on both sides of the divide. I am not pessimistic about that. It is perfectly clear that, on both sides of the argument, there are the beginnings of a change in mindset.

Chair: I have two people who want to speak, but I want the CBI to have a chance to comment on the issue.

Matthew Fells: On the ethical point, I completely agree with the comments about the need for greater clarity on both sides about what really matters and what is being asked to be done, but that is about performance and delivery. I disagree with the need to incentivise good behaviour. Good behaviour should be a given: if you operate in this space then it is probably not sufficient to say, “We are compliant with the law.” It brings with it a greater degree of scrutiny, transparency and behaviour that is commensurate with operating in and delivering public services. That should, rightly, be a given. Incentives ought to be much more clearly linked to what we are being asked to deliver on behalf of the Government and the taxpayer; outcomes and delivery should be incentivised and rewarded.

Q7 Chair: Ruby, is there a crisis of confidence?

Ruby McGregor-Smith: I think there is a little bit of a crisis of confidence on both sides. There is a lot that can be done to improve that quite quickly. On the big question of incentives, which has caused that crisis of confidence, I point out that when we talk about incentivisation and the outsourcing sector, not all of that is financial; some of that is a celebration of our people’s success day to day in how they deliver services—staff awards and recognising what gets done on contracts across the whole spectrum that we operate. All of us employ people with a wide range of diverse skills. Some of the contracts being commissioned are getting very, very large and quite complicated. Is the link between ethical standards and delivery very clearly set out between both parties at the outset? I do not think it has been easy to interpret what that means on both sides, which therefore means that you will get failures.

Q8 Chair: Explain that a little bit to me.

Ruby McGregor-Smith: When we talk about ethical standards—my group has a code on ethical standards—

Q9 Chair: I think it is: don’t lie. It is what I have said to you. What we uncovered in some of our inquiries is that people lied. It is pretty simple. I don’t really care how complicated the contract is, just don’t lie about distorting the data.

Ruby McGregor-Smith: I totally agree with you, but if you are having a debate on ethical standards it is actually wider than that and that is absolutely right. It also goes into

how you conduct yourself every day, how you lead your business, how you lead your people, how you operate and how you work in line with what your clients—in this case, the Government—wish. Sometimes that behaviour can get mixed in terms of the way contracts are commissioned and the way they are then managed and the day-to-day interactions between Government and their suppliers.

Q10 Chair: It is obviously an interesting debate, because the culture of your organisation is, I think, your business, not ours. I have talked to you before about things like ensuring a whistleblowing policy, not lying, paying your taxes—they are pretty basic things that ought to be agreed.

Ruby McGregor-Smith: Absolutely. I totally agree.

Q11 Austin Mitchell: This is an interesting new form of capitalism—you might call it state-dependent capitalism—and we have taken it further in this country than most countries, but it worries me because of capitalism's drive to profit. The drive to profit means that at some level there is going to be cheating at some stage by somebody. The problem with state-dependent capitalism is that we are cheating the taxpayer. How do we stop that? How do we maintain ethical standards? I would hope by tighter regulation, but Rupert Soames told us on Monday that "there should be a new dispensation, a new way of thinking about how companies do business with the Government, which is that companies owe a duty of care to the taxpayer," which sounds like a good idea to me. The NAO says that contractors should sign an annual declaration that services had been delivered and that controls were in place—that the duty of care to the taxpayer was met. Is that what we should do? Is that feasible?

Lord Bew: One of our recommendations is for an annual declaration. I think it is a way of trying to find a means of impacting on the organisational culture now. There are bodies outside this world. Clifford Chance, which is not competing for these contracts like G4 or Serco are, is a private firm; they incentivise so that at the heart of their structures are ethical standards, which come into promotion, recruitment and all these things. In a case of bodies that are dependent on the public purse, you can—and it is the position in principle—push for that culture if we know that it exists in part of the private sector anyway. That is one of the things we are keenest to see done.

Margaret also mentioned whistleblowing. It is a question of the organisational culture of these bodies. You can see from the NAO Reports that that is not, from the point of view of the public interest, satisfactory relatively recently.

Q12 Austin Mitchell: How do we hold companies to account for maintaining ethical standards?

Ruby McGregor-Smith: I think you can absolutely do it. Every company can do an annual declaration of the goods and services it provides. It can explain what it has and hasn't done. Every organisation has a process around governance, around the controls it exhibits and around its behaviours. It can be done, it just needs to be done and clearly laid out in the contracts we are asked to sign, so that everyone does it. I would be delighted to do that.

Matthew Fells: I think it is really important that this is part of good contract management because too often in the past, pieces of paper have been signed and then services have been outsourced and then forgotten about on the part of the Government. Much more focus on the ongoing management, including on some of the ethical issues, is really important to get right—do not just outsource something and then forget about it, but actually keep a focus on it and ensure that that is part of good contract management. More focus on that is a really critical part of this broader agenda.

Q13 Austin Mitchell: It's a tough one. Mr Soames talked about there being some sort of scout's honour situation, where you say, "My honour, I promise that I will do my best to do my duty," and so on. Do either of you think that there should be bans and penalties? The public do, but do you agree?

Ruby McGregor-Smith: Yes, I absolutely do. When you are running a large organisation that delivers goods to the public sector and to the taxpayer, there should absolutely be penalties if you get it wrong. That should be very clearly laid out, not just to us but to all our people.

Q14 Mr Bacon: Does that include being excluded from business?

Ruby McGregor-Smith: If that is absolutely proven, but I do not necessarily agree with blacklisting, because that can be seen to be unfair. If you absolutely get it wrong, you should be excluded. We have to deliver what we are asked to deliver, and we have to stand behind our commitments, as businesses, to what our clients ask from us. That is what we should do.

Matthew Fells: On the specific issue of exclusion and blacklisting, there is an important distinction to be made. I think that a blanket exclusion or blacklisting on everything you might provide to Government, at either a central or local level, would actually be unhelpful to the Government, on occasion, in terms of choice. But it is perfectly reasonable to take into account past performance, particularly in the delivery of specific areas. The test for me would be, "Have I got confidence in this individual or this business to deliver this for me?" If their previous track record does not suggest that I can have that confidence, that would be a reason to exclude them from that particular area of work.

Q15 Chair: It is always awful to name individual companies, but this Committee has looked at the out-of-hours GP services delivered by Serco in Cornwall, where there had been a manipulation of the data. On 250 occasions over a six-month period—a period when they knew they were being monitored—they lied about how quickly they answered the phone or how quickly a doctor went to see someone in their home. We looked at the tagging contract, which is well known in the public domain, where they were charging for people who had died or were certainly not ex-prisoners who needed to be tagged. In those circumstances, if you were looking at a subcontractor, would you carry on doing business with a company that had, as we found, actually lied on two occasions?

Ruby McGregor-Smith: If I believed that I could trust them again, I would, and if I believed that they had put right what they had got wrong. I may run a large number of contracts with a subcontractor of mine, and if I had the faith and I checked that, I would. But, as Matthew said, you have to do that on a case-by-case basis. It is very easy to look at an organisation and completely damn it when it does many things that are good as well as bad. I think things like that can happen when a number of complex contracts and people are involved. In my own supply chain, I would look at it very closely, but I would not choose to exclude people on a blanket basis.

Chair: Let me give you two analogies. We keep hearing how terribly complicated public services are. If I was a bank or an airline—you probably do jobs for banks and airlines—and I subcontracted work, I would not tolerate error. You could not if you were either of those.

Mr Bacon: They did, and they crashed the whole world as a result. They were selling products they did not understand.

Q16 Chair: No, that was within their own organisations. Say, for example, they took money out of my account when they should not have. These are big, complex organisations and they need 100% certainty in performance. I do not see why it should be any different in the public sector. Of course you will occasionally get a care worker who gets things wrong, or a doctor in the health service who gets things wrong; one can accept human error at that level. But, in these two contracts we looked at—we have only looked at those two—there was a systematic distortion of the facts.

Ruby McGregor-Smith: If it is systematic and endemic, I agree with you. If it is systematic but is isolated to one particular case or part of an organisation, you can do something different. I absolutely think it has to be done case by case. Human error can occur on many levels with the number of people we all employ. I agree that some of those are acceptable and some of those are not acceptable. I would be as horrified as you have been.

Q17 Mr Bacon: Can I follow up this specific point about systematic misleading information? The Chair is right. There were cases in Cornwall particularly where there was

systematic misreporting that was conscious and deliberate. We have also had in the NHS, through internal employees, people systematically reporting inaccurate information in order to manipulate the apparent meeting of targets so that, for example, an admission time for a ward of four hours until admission would be met because a trolley in a corridor would have a curtain drawn around it and then it would be called a “ward”. When a patient was moved by a hospital porter, the fact that they had been moved would be entered on to the computer and the apparent time at which they were moved would be the time on the computer even though it took another hour after that before they were actually moved. That was systematic so that the information going up the chain was completely misleading. Which of these—the contractor example that the Chair was talking about or the examples that I have just given—is more unethical?

Ruby McGregor-Smith: Whether it is delivered by the public or the private sector, it is equally unethical. But I would ask you to reflect on one point. Those who commissioned or asked in the public sector for those waiting time targets, what pilots did they ever run to see whether they were achievable? What pressure were people put under to do it? Were they scared of losing their jobs? What culture was given to support them when those targets were put in place? I would argue that for whether anything was done in the public sector or the private sector.

Q18 Chair: I agree. I am going to keep us moving. Amyas wants to come in and then I am going to go to Stewart.

Sir Amyas Morse: I am not unsympathetic to all that. Some of the groups that we are talking about have been growing fast—compound over a long period of time—and a lot of it by forming small subsidiaries. If you look at the group structure there are literally hundreds of subsidiaries. You know perfectly well that it is not feasible to maintain good control in that environment. Would you think that there is some obligation if you are going to put your hand up for a contract to be able to confirm that you have internal control that is adequate? You hear very good things being said at the centre but if you are not in control and you have a huge, fast-growing group gobbling up a load of contracts, it is really a bit difficult in practical terms, whether you are trying to or not, to implement control and enforce those standards, particularly if you are acquiring groups of employees. You haven’t even trained them yourself.

You know all these problems. They are very real. It is not just a question of what you should be doing. You have to bear something else in mind. I can see that when there is a public outcry the benefit of doubt is not with the contractor. The public debate blames the contractor, even though it may sometimes be the fault of the Department, equally, for the way they have contracted. It is very damaging to contractors not to be in control of this. If you just consider the fact that managing these markets more strongly and saying, “Are you really in a position where you are in control of your business enough to qualify for this new contract?”—I don’t think people ask themselves that question very often when they put in for contracts. I think they just go after everything that is available.

Ruby McGregor-Smith: I think it is really tough. As large public companies, as you grow very rapidly, what you have to do at every level is put in the right level of control and governance to support your people. But you are massively people-dependent in each of those subsidiaries. We have learned over the years many lessons in outsourcing. The most valuable ones have been that if you don't have the right people with the right management controls, mindset and ethical standards you will not necessarily succeed. You are absolutely right: when you sign off in the centre to convince yourself that you have the right controls, you have to be so sure about those people. If you are not you have to question whether you are able to bid in certain markets. It would probably surprise many of you how much work we never bid for in many markets because we don't have the capability or the ability to do so. None of us work in every market and none of us should. I work in very little parts of central Government. We do not have that capability to do that everywhere. But you can go on to that growth track of saying, "I will do things I can't do" and convince yourself, and then you do get the outcry you have got, which is perhaps a lesson learnt for the whole sector.

Chair: Right. Stewart, then Jackie. I am sure they will be brief. The last two questions were very long.

Q19 Mr Jackson: I think it is fair to put on the record that—we have to do so increasingly in this Committee—there are always problems in the public sector as well. At least in the private sector there is a chance that both personnel and culture change, whereas frequently in the public sector neither personnel nor culture change. You only need to look at two worlds—Rotherham council and possibly Mid Staffs Trust, off the top of my head—to demonstrate that things do go wrong in the public sector as well.

Lord Bew, can I ask you—because I think it is instructive to look at this within the context of ethics and the client-contract relationship between the public sector and private contractors—about international comparisons? Is it your view that we are more corrupt, less transparent and less efficient than other countries in Europe or North America—Australia, New Zealand?

Lord Bew: If I could just take the first part of your question first. Our report is not based on the idea that there is a golden age of the public sector. In our report there is no sense of golden ages, the reason being the examples that you have given of things that have gone wrong in the public sector. It is simply based on the idea that there is £200 billion of public money being spent, and it is important to get more focus on issues of ethical awareness than has been the case in recent years.

On the other point, earlier this year we published a document with a number of comparative figures. It was an attempt to try and get a grip on this debate about public standards across Europe and whether there is a particular problem in this country. It is pretty hard to argue, on the basis of the volume of material in our report, which I will happily send you, that we produced evidence that there was a particular problem.

There is a particular problem of perception in the sense that, for example, Dutch and British people have roughly the same experience—real hands-on experience in their lives—of corruption, but the Dutch are much less likely than the British to believe it is a big factor in their society. So there are different perceptions. There are quite a few things in the document, but there is very little evidence. We are not arguing that there is some kind of acute problem that is particular to this country or worse in this country than in any other country with regard to ethical standards, either in public or in private life. That is not the point. It is our job to defend the ethical standards of the Nolan principles in the public sector, and also, in this important respect, to defend them where we are talking about this world of public-private mixes.

The short answer to your question is that our earlier document provides no evidence that there is some special, awful problem related to the United Kingdom. Somebody might read it that way; I certainly do not read it that way.

Q20 Mr Jackson: I guess my point was that in order to ameliorate the problem, you have to know the size of it and whether it is a perceived or an actual problem.

Lord Bew: I agree with that.

Q21 Mr Jackson: If you take just one example, contracts in the US county government board of supervisors at state level, I would hazard a guess that it is probably more corrupt than your average smaller-scale municipal contract in the UK, for instance.

Lord Bew: Our report did not cover the United States, so I do not want to say anything about it, but our report clearly shows that there are possibly other countries in Europe where what you say might be equally true. But our job is to defend ethical standards in this country. When we asked the public through Ipsos MORI what they expected from this new mix of private-public services, they clearly expected these standards to be observed. In recent times we have had a number of particular scandals that have made it more acute. Also, there is a more general point that came up in the exchange with Sir Amyas, which is the discussion about the complexity in the development of subcontracting.

Mr Jackson: I am going to come on to that.

Lord Bew: That is something that, again, has developed so quickly that nobody has got an ethical grip on it.

Q22 Mr Jackson: If we can move from the ethical and philosophical to the practical, Mr Fells, interestingly you argued against incentivisation. Do you not agree that, to a certain extent, you have to incentivise companies as a quid pro quo for the much greater and intense media scrutiny and checks and balances in our system, such as Parliament or ombudsmen, and the reputational risk they face when contracting with public bodies? It is

therefore not perverse or unusual for them to seek some incentive to be in that marketplace.

Matthew Fells: To be clear, I argued against incentivisation of behaviour. Incentivisation for performance is absolutely the right thing to do, but good behaviour is actually part of good business and that is part of performing well. So I am not arguing against incentivising good performance, but I am saying—

Q23 Mr Jackson: So you are saying, “We will not reward you for not stealing from the public purse, but we will reward you for hitting your key performance objectives.”

Matthew Fells: Good behaviour goes hand in hand with operating in this marketplace, frankly, and if you do not do that over a sustained period of time, that is not good business sense.

Q24 Mr Jackson: Okay. My final question is to both of you. With PFI in mind, which has become a monster—it was envisaged more than 20 years ago to be a vehicle to facilitate the construction of roads and bridges but it became a massive monster that encompassed colleges, schools, hospitals and so on—isn’t one of the problems, and I am not sure what the solution is, the asymmetrical relationship between the client and contractor in that, in terms of knowledge, skills and expertise, the client often does not have that critical mass and capacity to deal with the complexity of these massive contracts? Do you agree with that and, given that the focus should be on taxpayer value, how do you cope with that?

Ruby McGregor-Smith: On some of the larger, complex contracts it is very difficult to argue that, as a client, you will have every skill in-house. But you will also have support around the different Departments from third party advisers on how to do the more complex work.

The challenge, though, is less about what originally gets commissioned, but how that is managed and what expectations are set at the outset that then change rapidly. Particularly in the case of some of the PFI contracts, setting contracts up 20 years ago in a very different world—in terms of technology, for example—and asking individuals to commit over that period to what they could deliver is a tough thing to do. So I think it comes back to commissioning and what you are really looking for. It is for you to decide what works.

It is also about having the same staff on both sides. We have seen many changes of contract management over a very short period of time on some of our contracts and therefore they do not have the history and experience of how the contracts have been built up, which again can cause real challenges.

There are ways through that. You need to ensure that you always have appropriate benchmarking every five years for any contracts over that period and that you absolutely

need to have the opportunity and flexibility to change KPIs and incentivisation as you go along. And you need to ensure that you do not constrain yourself to contracts that can never really be broken. Contracts evolve every day and those that we sign on day one will potentially be very different 12 months later, so what you are doing each day for the public sector can change quite considerably over a short period of time. Therefore, the contracts have to evolve properly, with the right KPIs and structures, to ensure that both sides are delivering what they believe they should.

Q25 Mr Jackson: Yes, but one might be weaker than the other. We saw in the formulation of tax policy that some of the tax advisers to private companies are paid enormous amounts, and bonuses as well, to develop products essentially to avoid tax. They are up against very good, high-flying civil servants in the Treasury, but those civil servants are not paid as highly as the others. There is obviously that sort of imbalance between them.

Ruby McGregor-Smith: I think you have to have the right capability on both sides.

Q26 Mr Jackson: But should there be a third party?

Ruby McGregor-Smith: No, I think you should have the capability to make sure that you can stand on the other side of anyone who has a sophisticated offering. I fundamentally believe that.

Q27 Chair: I think you should say what you said outside. Perhaps you can be more open about that.

Ruby McGregor-Smith: You have to ask yourselves, if you are going to commission large, complex contracts as part of Government, you need to have the people who can do that and who are paid the right amount of money to do that for you. You have to attract the right people to work for the public sector, as we can do for the private sector, and remunerate them appropriately in whatever way you choose. To attract, recruit and retain the right quality of people, you will have to look at your remuneration and at the skills you want to have in-house. That is what you have. We deliver services to you under very complex structures, so we have to have those skills. If you want it to be even, you also have to have an element of them. We should all be very honest about that.

In a way, as an organisation, when we sign up to contracts we like to ensure that our client absolutely understands, clearly, the obligations on both sides. In the outsourcing sector we have all not only had failures but walked away from things where we believe both sides did not understand what we were trying to deliver. Going forward, to avoid that for both sides at huge costs for both the taxpayer and the private sector, the skills challenge must be addressed.

Q28 Mr Jackson: But as you have heard from the People's Soviet of Grimsby, you are driven primarily by shareholder value, aren't you? There might be an element of corporate social responsibility, but in the short and medium term it is clearly about shareholder value. What is the imperative forcing you to look at those other, wider issues and correct the imbalance between the client and the contractor?

Ruby McGregor-Smith: We may be driven by shareholder value, but I want to create a great business that is around for generations and that employs fantastic people delivering great services to the public and private sectors. You do not do that over a three or six-month basis with shareholders, you do it over a long-term basis and ensure that you have a great business that people want to work for. We are not only driven by hitting a number; we are totally driven by everything else that comes across that. Our shareholders would say to us as public companies that they would expect that of us, because you cannot build a great business if you just think about three months out.

Matthew Fells: I just want to make the point that the Government itself is fundamentally changing. Today, it is not only about providing and delivering services; a core skill set is around commissioning as well. That is quite a fundamental change that is going on, and change in any organisation is difficult. The Government is no different. Making sure that really good people in the public sector have that skill set is part of redressing the balance you were talking about.

Chair: It was interesting that on Monday neither of our permanent secretaries had directly delivered a contract.

Q29 Jackie Doyle-Price: I am a small-state Conservative, so erring on the side of regulation is the least favoured option for me. Nevertheless, reflecting on what you said earlier, Mr Fells, about how poor cultural practice in a business is not going to be good for business in the long term, that would hold if you had a reasonable degree of competition in bidding for these contracts. The truth is that in some areas you just do not.

The obvious example is G4S. Look at the extent to which that company has grown, partly by absorbing the competition. It has shown behaviours that, although not necessarily incompatible with good service to the public, leave you feeling uncomfortable. They are not the values that you have just articulated that underlie the growth and sustainability of your business. Other than regulation, if competition is failing, what else can we do to encourage and embed good cultural practices within these contractors so that they operate in a way that is consistent with the ethos of public service?

Matthew Fells: I think that addressing your point about choice and competition is fundamental for this—that is what keeps businesses' feet to the fire in every single market, and I do not believe that this should be any different. There is a lot that you can do to boost competition, and that would be a good thing, so that you are not reliant on one organisation, or a small handful of organisations, in any situation.

If you think about some of the smaller companies that the CBI talks to, they say, “Too often, if we are trying to break into this market, there is not enough pre-market engagement, for example, so we do not understand what is being asked of companies by the Government and we cannot break into that market.” They find the bureaucracy in terms of some of the tender pre-qualification criteria very onerous, as well as the bid costs and the transfer of risk. On occasion, it might be that the Government take a decision, “What we are really after here is economies of scale to drive down cost,” and that logic would take you towards saying that you need a larger organisation with the capability and the balance sheet to deliver those economies of scale. But if, on occasion, the priority is to boost choice and competition in the market, I think there is a way of structuring the markets and structuring contracts to make them much more accessible and appealing to smaller organisations tomorrow than they are today. Boosting choice and competition is really important.

Q30 Jackie Doyle-Price: The follow-up to that is: is the current civil service structure capable of thinking that way and delivering that?

Matthew Fells: It goes back, first of all, to clarity about what you are trying to achieve, and, secondly: do you have the capability to shape and manage that market? Too often, structures are put in place that are too complex relative to the outcome that is sought. I think it goes back to real clarity of thought—what are you trying to achieve?—and then a conscious decision to shape and structure a market lined up behind that. I do not think that that logic trail and thought process happen enough at the moment.

Q31 Mr Bacon: May I return to what you were saying about commissioning, Mr Fells? A couple of decades ago, I represented the management consulting industry. I worked for a trade body that represented the big consulting firms. A perennial complaint of the member firms was that in dealing with the public sector, they could not get engagement at a high enough level inside the client organisation. I have heard that at various points since then over the past 20 years, including in 13 years on this Committee. First question: is that still a problem?

Matthew Fells: Access to senior decision makers has been and continues to be an issue. There are steps to address that, including with the introduction of the new Crown commercial service and so on, but that is a journey. I do not think that it is there yet.

Q32 Mr Bacon: You look like you want to comment as well.

Ruby McGregor-Smith: No, really I agree. I think it is often very difficult to understand what you want. There isn’t any real pre-market engagement. It is done very formally. The point about whether you are big or small is not relevant on competition. You can be big, like us, but we cannot bid for most things. We cannot afford the bid costs and we do not necessarily know whether we will ever be considered to win anything, because we do not really know anybody. In the end, people work for people, and they have to trust

people on both sides. If you do not have any time with them in any setting except for at a pitch or in a committee meeting, I think that is really hard.

Q33 Mr Bacon: Does either of you think that there is an understanding among commissioners? You mentioned the skill, or the lack of skill, of commissioners. I have come across what you might call wide-eyed, naive innocence on the part of public sector buyers that private sector suppliers are profit maximisers. Do you think, first, that that is still true? Do you think that there is any understanding on the part of the client organisations commissioning that the commissioning process is not a cost-free process?

Ruby McGregor-Smith: I have seen a very positive change in the last two to three years, with new skills being brought in to help address the issue from the commercial reps, and also the introduction of the work that the Cabinet Office is doing. I think that that is a really good start in bringing in individuals who understand the commercials in a far better way from the private sector. I see very positive beginnings of a change. I still think, though, that there is a lot more that will need to be done in terms of understanding.

Matthew Fells: I echo that. It is a big change, and it is a big journey. We are probably still in the foothills.

Q34 Chair: My very final question—then we have to move on, because we are late—is on transparency, which is an issue that the Committee has been pursuing for some time. We want to be able to follow the taxpayer's pound. The taxpayer's pound is being spent through private contractors and we want to be able to see it. I would just like to hear—I have heard the CBI's view informally, but it would be good to get it on the record—whether you would support open-book accounting, which would let us see the underlying costs and, indeed, the profit; whether you would support NAO access to ensure that value for money and probity existed in a contract; and what you feel about freedom of information provisions extending to the bit of your business that is funded by the taxpayer.

Matthew Fells: I am happy to take that. From the CBI perspective, we have been clear that more transparency is required for business to step up to the plate and to be able to operate in these markets. First and foremost, we should say that, at the outset, every contract that is agreed should stipulate the right level of transparency and the key things that are going to be reported on, so you have that clarity at the outset.

We think that open-book accounting should become the norm, rather than the exception. We also support an extended role for the National Audit Office so that it is able to reach into contracts that are delivered by the private sector when it is delivering public services. All those things, plus contracts published online, are absolutely right, and there is broad agreement on those.

The final piece that we are looking to get clear—we are still working with the Government and trying to understand exactly what will be right for myriad, diverse

providers—is this sticking point around commercial confidentiality. Both sides, in the past, have hidden behind that too much, but it is a real issue. For us, the detail behind pricing and intellectual property are probably the two areas where we need to be really clear what is and is not acceptable to term commercial confidentiality.

Q35 Chair: Okay. The Institute for Government did a bit of work in which they identified over £2 billion of spending by central and local government—by the public sector across the piece—where the supplier’s name had been redacted. Do you think that is acceptable?

Matthew Fells: I don’t think businesses typically—there might be some in one or two areas—have any reason or need to hide who is providing a service, unless there are particularly sensitive areas. Potentially, in the areas of defence or health, for example, you can imagine scenarios where it could be too sensitive. But, by and large, and as a norm, I would say businesses should be prepared to step up and say, “Can you identify who is providing a service?” I think that is part of accountability.

Q36 Chair: The final bit of transparency is what you get in people’s accounts on the spend with a particular company. You do not always get that spend relative to the contract agreement, so there may be a difference between the two. Do you think that should be visible?

Matthew Fells: I think understanding that is part of this final lap, if you like, of detail to get this right. The jury is still out on that.

Chair: Thank you very much indeed. That was a really helpful session. We are going to move on to holding the officials to account.

Examination of Witnesses

Witnesses: **Bill Crothers**, Chief Procurement Officer, Cabinet Office, **Vincent Godfrey**, Director of Procurement, Ministry of Justice, and Crown Representative for Serco, **Stephen Kelly**, Chief Operating Officer, Cabinet Office, and **Ian Tyler**, Crown Representative for G4S, gave evidence.

Q37 Chair: Apologies for running a little late; these things inevitably happen.

I want to start by clearing up something that emerged in our evidence session on Monday. We had a discussion with G4S and Serco. I think, Mr Godfrey, you—which one?

Stephen Kelly: Serco.

Q38 Chair: Yes. We had a discussion with G4S and Serco. I had been under the impression that when Chris Grayling made a statement to the House on the uncovering of the abuse of the tagging contracts, the false claiming of money, he said in response to a question—which, ironically, was asked by Nick Smith—that, “We will not be awarding the companies any new contracts unless or until those audits are completed to our satisfaction.”

I had to look that up because I could not understand the evidence we were getting on Monday. The impression I got from that was that there would be no negotiation or awarding of new contracts. What emerged on Monday was that there was clearly negotiation. You might explain to me why Members of Parliament were given the impression that that was not happening.

What has emerged today from two e-mails that we have had, one from G4S and one from Serco, is that contracts were indeed awarded, in particular to Serco. There was one in Justice—and this all took place in Justice—that gave them more money and more business. It was an expansion on an existing contract on HMP Thameside, but it was growing their business at a time, if I read that in a common-sense view not just sticking to the words, they should not have done.

We then look at MOD. I will not name them, because I am told I can’t for security reasons, but there were seven contracts awarded to Serco during that period when Chris Grayling had clearly told the House that, “We will not be awarding the companies any new contracts.”

We then go to G4S information, which we have just circulated to members today. Again in the MOJ there was an increase in business, through a contract variation. I take that as awarding new business. You are playing with words if you call it just a variation. That was for HMP Parc, phase 2 operations. Three days after the suspension was lifted there was a major contract through HMRC on the facility management for HMRC south that was clearly negotiated. I haven’t brought my papers from Monday so I do not have other ones.

Either people in the civil service were doing things that they should not or, as it seems to me, Members of Parliament were misled by what Chris Grayling said to the House. I want to clear that up before we get to the main part of the business.

Stephen Kelly: Madam Chair, I will start by setting the context for the sequence of events, because I think that is quite critical. At the point in time that the Secretary of State made that statement, in July, that was accurate. I have picked up on Monday’s comments around a ban. The man in the street I think would say that we should stop dealing with them. In our private sector experience you would probably take quite draconian actions. However, we have to balance that with EU law, so effectively we can’t do that and I will explain why.

Q39 Chair: We don’t accept that and will come back to that.

Stephen Kelly: Okay, fair enough. In terms of the sequence of events, there was phase 1, which was a major thorough investigation. Did we take it seriously? Absolutely. That culminated in and triggered the forensic audit. Then there was a second phase where we demanded a corporate renewal programme and a plan. There was effectively a third phase where we are now ensured that both companies are on track with that plan. In terms of where we were, we pressed the pause button, which is probably the best way to describe it, on contracting new work. There was no work let to either company over the summer period, when forensic audits and investigations were taking place. We were fundamentally trying to reassure ourselves whether it was an isolated incident or systemic. If it had been systemic that would have pointed to other things, such as whether these companies are too big to fail. If this had been systemic, we would effectively have pursued this ruthlessly. However, we reassured ourselves at that point—it was probably September—that, after the forensic audit and 28 contracts reviewed, there was incompetence on our side and from the company’s point of view, but there was no material wrongdoing. That was what we were really worried about in terms of defrauding the taxpayer.

Q40 Chair: Mr Kelly, I understand the process you went through; it is your prerogative to take the decision you did in the end. I may be critical of it, but it is your prerogative to do so. However, I find it unacceptable to give the impression to Parliament, through the words that Chris Grayling used, that you were pausing what you were doing with these two companies until you had completed the audit to your satisfaction.

Stephen Kelly: Yes, we did.

Q41 Chair: You said that in July—you lifted that at the end of January—yet we have found from questioning that two things were happening then. You were “negotiating”—we can play with words, and maybe “negotiating” is not the same thing. But you gave two extra bits of work to both companies in the MOJ, which was the Department where the problems had emerged with G4S and Serco. You also gave seven new contracts in Defence when no new contracts were supposed to be given across Government. That is just not on.

Bill Crothers: Can I add that 19 December is a key date? On that day, the Justice Secretary gave a written ministerial statement, as did a Minister at the Cabinet Office. At that point, we announced the completion of the cross-Government review and also that, in Serco’s case, they had given recompense to the taxpayer. In December, there was an indication to Parliament and publicly that confidence had not fully regained but was improved. I believe it was around that time that the prison contract was extended. That date in December is important in the chronology, because it was when Serco paid us and when we concluded that there was no impropriety. That is on the record.

Sir Amyas Morse: We have a note here that says it was extended on 9 August. This is G4S.

Bill Crothers: I am talking about a different contract. This was a big contract in December.

Chair: My understanding—someone will correct me if I am wrong—is that the Secretary of State said that they were lifting the ban at the end of January. You may have thought that you could carry on negotiating; I do not think you should have done, but I can understand how you could manage that within the terms of what was said in the House of Commons. However, awarding those two extra bits of work with taxpayers' money when they were under investigation and you had not cleared them is off-the-wall awful. Awarding those contracts in Defence when all of us thought there was a pause in the work with both companies is just unacceptably outrageous, awful and every word I can think of. You have probably put the Minister in an embarrassing position, or did he know? None of us will know that. Nick wants to come in, because he asked the question at the time.

Q42 Nick Smith: Listening to the explanations this afternoon, I am a little concerned that I may have been misled by the Minister on the Floor of the House. It is important we have a written explanation, perhaps lodged in the Commons Library, outlining exactly what the Minister said and when. We need a full explanation of the sequence of events regarding negotiations and the awarding of contracts to these companies, as well as an assessment—ideally an independent one—of whether I have been misled. I do not know who is best to conduct that review, but it needs to be done because this is a serious worry. What do you propose to do?

Bill Crothers: This is probably not the place for it. We have a detailed chronology of when statements were made—written ministerial statements or to the House—and when contracts were laid. I suggest that we assemble that, give it to Amyas and get an opinion on it and he can verify it. Quite a lot of it is public record.

Q43 Mr Bacon: But there needs to be something in one place, verified by the NAO and sent to us. That is the bit that you left out.

Bill Crothers: We will do that. These guys can verify it and then we will send it. We will do that very quickly.

Chair: I want to move on to the main thing. Austin, one final quick question and then we will move on to the main issues.

Q44 Austin Mitchell: Can I just clear up what you can do in terms of rescinded contracts? The NAO says, in paragraph 1.14, "Under EU law, government could not easily 'blacklist' the contractors". The letter that we received on 29 August from Richard Heaton said, "Those governing procurement require suppliers to be excluded from bidding for new contracts if they have been convicted of defined criminal offences, including, for example, bribery, fraud and money laundering. A supplier may also be excluded from bidding where it

has committed an act of great professional misconduct.” It sounds like there is nothing you can do to break a contract unless they are in the clink. Is that the case?

Bill Crothers: No.

Q45 Austin Mitchell: Does that apply to offences in this country or, as these are big multinational companies trading in other countries, offences committed in other countries?

Bill Crothers: I do not know, technically. I know that if they have been convicted of a crime, there is an obligation not to do business with them. It is not a choice; it is an obligation. However, are there other things that we can do if they are not convicted? Yes, there are. We can, for example, not give extensions. We can choose not to give contract changes. There are things that we can do and things that we do. That is why we were able to do the pause during autumn last year.

Q46 Austin Mitchell: Paragraph 1.14 in the NAO Report says that even if you could not do anything by ending the contract, the Government “could put significant political and reputational pressure on the contractors to demand...significant ‘corporate renewal’ including replacing senior managers, restructuring and new governance procedures, new ethical training and greater transparency.” Was that done?

Stephen Kelly: On that point there are a few things. One is the controlled environment that the Government have established; it is really important to pick that up and stop extensions. We have oversight of that. The second thing is that in the summer, after the Secretary of State made the statements, we paused a number of contract requests. On your last point, we advised the companies concerned that it is probably not welcome for them to bid for new business until they get through this phase. There were robust discussions going on with both companies during that period, when we were probably as alarmed as you have become having read the Report. We took the most robust action possible.

Q47 Austin Mitchell: Corporate renewal is a kind of American concept, about which I do not know much. Have we got the expertise to audit corporate renewal in this country? Do you know what it means?

Stephen Kelly: Yes, I do. I was fortunate to be the CEO of a NASDAQ company. I led Sarbanes-Oxley 404 compliance for my company. I lost sleep at night worrying about it. I had full accountability and responsibility. If I had got it wrong I would have gone to jail. I came back here, I was a FTSE CEO and I have now introduced corporate renewal in large public companies three times. We have a colleague and we created the Crown oversight group, which is probably the best group that I have seen effectively operating in Government of great permanent secretaries such as Jon Thompson and Mark Sedwill and three non-executive directors with direct experience of corporate renewal. In that room I

would suggest that we had as much corporate renewal experiences as is in the UK. We were very rigorous with the companies about what we expected as a customer. It is pretty important that we remember we are a customer; we were not the board or the chairman of the company exercising management changes. We were the customer and had to have the responsibility that comes with that.

Ian Tyler: Certainly the experience that I have had, coming in very much at the back end of that process, was that, actually, we were quite well tooled up on corporate renewal—surprisingly so in that particular group. We also, with the officials—I think quite sensibly—added a degree of proper intelligence as to how that would work. So, as best I could judge the bit of the process that I saw, I think that was done quite well.

Chair: I want to get back to the main issue.

Q48 Meg Hillier: Doesn't it just come back to the issue of the providers being too big to fail? Have you seen the list of defence contracts for which Serco re-bid?

Stephen Kelly: Yes.

Q49 Meg Hillier: We cannot reveal those publicly, but clearly they are quite specialist contracts for a company that has already had some experience in that. I am not an expert in this area, but it looks as though it would not be easy to find other companies off the shelf to bid for those contracts, so what would have happened if you had not continued your negotiations and discussions? Was the problem that there was no one else?

Stephen Kelly: Actually, I probably should have said in my opening comments that, obviously, we think the Report is excellent. The only element that I would probably refute is that we ever thought they were too big to fail—absolutely not.

Q50 Meg Hillier: What would have happened if they had failed?

Stephen Kelly: We discussed contingency plans in that summer, looking at alternatives: step-in clauses, termination or bringing other suppliers in to rectify the situation.

Q51 Meg Hillier: And were there other suppliers that you could have brought in for these contracts?

Stephen Kelly: Certainly in some areas.

Q52 Meg Hillier: Did they get a chance to compete for these contracts when they were re-bid, because they are “on re-bid” or “change to existing contract”—perhaps that is

slightly different. There were two re-bids, and then service variation tasks under existing contracts, so were the other bids uncompetitive?

Bill Crothers: Yes, those seven for the MOD are for tens of millions, but that is relatively small—

Meg Hillier: Yes, I can see that they are smaller, but still—

Bill Crothers: There were a few extensions. For example, one of them was a training course for pilots and there was not anyone we could have to replace that at that instant, so we extended it for a short period. Some had been procurements that had run and, if we were not going to award, then there was going to be a gap for a period, so we took a judgment to award those contracts after the pause period. We will certainly write to you—

Q53 Chair: They were not; that was during the pause period.

I want to move us back to the main point. Can all four of you give the Committee confidence by confirming that you do not think that we—the Committee and Parliament—were misled?

Stephen Kelly: Yes.

Bill Crothers: I honestly think you were not misled and I think the chronology will show that.

Stephen Kelly: It is really important to understand the sequence of actions and the statements—

Chair: I do: all this stuff happened before January.

Stephen Kelly: We will write to you fully about that. Actually, if you had been in our shoes, you probably would have come to the same conclusions at those points in time. But absolutely, I do not think that Parliament—yourselves—was misled.

Q54 Chair: Okay; well, we look forward to seeing that and the NAO auditing that.

Let's go to the big picture. I think this is a really good Report and that, certainly the two people in the middle have been working incredibly hard to try to improve the way we contract across government, but it portrays a rather dismal picture of where we are at. It is difficult to know where to start because you need to tackle so many issues. What do you guys think are the incentives for any civil servant to do a good job on contract management?

Stephen Kelly: I will pick out the things that are relevant, which fundamentally are about capability. We have got great civil servants with strong public service ethos, but in this

area we have got too few senior people and lots of administrators. Bill can share with you the plans for the future.

I also think—you are very clear about this—we have probably had 30 years where successive Governments have contracted out more and more services. We probably have a situation where the civil service favours policy, so we need much better operational skills and experiences around commercial, digital and running big projects—we all know that. Also, sadly, probably up to 2000 we experienced 20 years of deskilling in the civil service around these critical skills.

So in parallel—it is almost like a double whammy—we are contracting more stuff out and we are deskilling the civil service, so we are going to get car crashes. We had one here from a contract way back on which some great work was done by the NAO in 2008. But we have to avoid going from tick-boxing stuff. We have to actually change the behaviour and re-programme the culture, the ethics, and the leadership to manage this stuff systematically. Those are the critical things.

Q55 Chair: I accept all that. I agree with all of that. I think we probably all do. We say this time and again in this Committee: our frustration—I am sure you share it—is seeing these contracts go wrong and the same things going wrong every time. So you sit back thinking, “There are all these bright guys. There is a little bit more training going on. It is a bit more high profile now.” This Government came in committed to sorting it. We are now in year five of the Government and I don’t really feel a massive change in culture. Why are there no incentives there among the civil servants? What will make them get better at managing contracts?

Stephen Kelly: A shift to focusing on outcomes, alignment of interest, but on the personal stuff you need sanctions and incentives. Allied to that is performance management. Honestly, as a civil service we have not been good at that. I am pleased that Jon Thompson has taken action, if there have been issues, to change the people. You change the people first of all. Win hearts and minds. But if you cannot get the better outcomes you have to change the people. You have to move them out of these critical functions and, indeed, to hire much more experienced competent people.

Q56 Mr Bacon: Can I just stop you for a second. When you say, “You have to move them out of these critical functions”, one of the key problems the civil service faces—this happened with universal credit, I know for a fact—is that teams of civil servants without the right skills are foisted on a project because they need to be put somewhere. You have removed these folk you were talking about. Where do they go? Are they removed from the public payroll or do they go somewhere else?

Stephen Kelly: My preference—

Mr Bacon: I wasn't asking you about your preference. I was asking you what happens.

Stephen Kelly: What we should do and what happens are different. What we are doing in our group is moving people out. We have this performance management system. If they are bottom box they are on programmes; they are on care and nurturing. If they make it—

Q57 Mr Bacon: I know you spend a lot of time on the other side of the Atlantic, but if you could cut down the jargon so that we can all understand you it would be really helpful.

Stephen Kelly: There are people who have left the organisation because they are not going to make it—simple as that. Bill, talk about, maybe not individuals, but some examples.

Bill Crothers: By the way, I don't think it is satisfactory. If you are asking whether the incentives are sufficient, I don't think they are. The backdrop of the culture needs to change. You don't change it overnight. It is moving on a path but it needs to improve more. You need to attract the best people. You need to retain and develop the best people and you need to remove people who are not up to it. Any good organisation will do that. I don't think we have got the remuneration packages right on attracting the best. By the way, I don't think we need to pay a lot more. I don't think we need to pay the market rate because I think that people come in and get satisfaction and stimulation from working in this environment. But I do think we need to get the remuneration package right, part of which is performance and part of which is the civil service not being frightened of bonuses. Having a performance payment based on good performance is a good thing, but there is a view that that could be seen as bonuses and then they get criticised in the press.

I have had a career where 40% or 50% of my remuneration was based on performance. Some years I had zero; some years I hit the top. We lose people because we do not reward them. I don't just mean remuneration. I mean we do not promote them, give them a broader job, give them more responsibility and so on. We are not tough enough in removing people who are not performing. It does not mean the culture has to be as aggressive as an American meritocratic firm, but it could be a bit tougher in proper performance assessment. I agree with you. There is more to do. I think the civil service top of the shop agrees. Probably like this Report says, we need to do more and we need to do it faster.

Q58 Chair: Let me just quote to you. I think this is a really good Report. On page 37, paragraph 2.21 states: "But the reality is that government is unlikely to ever have the commercial capability of its contractors. It does not pay the same overall amount as the contractors at a senior level. It cannot provide the same incentives to focus on value for money as contractors will provide to increase profit. It does not offer the same hope of advancement to the most senior positions as offered by business. And it does not provide

the same breadth of experience across both public and private contracts.” It is pretty gloomy.

Bill Crothers: I’m not that gloomy. I might be pessimistic, but I am not that gloomy. I think Amyas and I probably disagree on this, because I am a little more optimistic. Two years ago we had zero Crown representatives. A year ago we had eight—these are from the private sector—and today we have 17. In a week or so we will have 20 or 21, and next year I hope to have 35. Each of those guys—Ian can talk for himself—has substantial business experience.

There is a multiplier, because one thing they are doing is essentially running a teaching hospital. Each of them is training 10 or 20 people on the job. Now, 300 or 400 people is pretty good as a start. We are growing our own. I now have a dozen fast-stream guys working directly in my area. We would never have had fast-stream guys working in Government procurement two years ago. It has become a respected thing. If you are a good graduate, you come and do six months in Government commercial.

Q59 Mr Bacon: Gosh, as much as that?

Bill Crothers: Pardon?

Mr Bacon: Six months.

Bill Crothers: Ah, but listen. What we have done—this is the progression—as of this September—

Mr Bacon: I should let you know that I spent four months as a foreign exchange student, for the purposes of clarity.

Bill Crothers: Okay. This month, September, for the first time we now have a commercial fast stream. We have a fast stream focused on commercial, and it will not be six months; it will be through their career. We will manage their career through the fast stream exclusively on commercial activity. That is the first time that has been agreed, and it has just started in September. We have links with six or seven universities to bring in kids from there. This is not a panacea and it is far from perfect, but each day you get more and more.

Q60 Mr Bacon: On your future manpower planning, which in an organisation such as the Government you not only can do but have to do, are you thinking and planning in terms of when some of those people will start being directors general and permanent secretaries? Are you thinking 15 or 20 years for when that will happen?

Bill Crothers: Frankly, no, because we have some alligators in the trench that we are trying to deal with today. I think we should, but today it is grow our own—

Mr Bacon: Because if you don’t, it won’t happen, and it hasn’t happened—

Chair: In the past five years.

Q61 Mr Bacon: What Mr Kelly said earlier he said in a slightly more Americanised way, but most of what he said could have been said at any point since 1968 when the Fulton report came out.

Bill Crothers: What couldn't have been said then was that we had a commercial fast stream, or that we have a dozen fast-stream guys working in Government procurement.

Q62 Mr Bacon: So the commercial fast stream has 12 people in it?

Bill Crothers: No, that is the traditional fast stream, where they go around the Foreign Office and so on. They have been working on between six and 12-month rotation for about 18 months. We agreed within civil service HR that we will now have a specialist commercial fast stream, and that whenever they come in and work—

Q63 Mr Bacon: So this is separate from the rest of the fast stream.

Bill Crothers: It is a component of the fast stream.

Q64 Mr Bacon: How many fast stream people does the civil service as a whole take on each year—domestic and foreign services?

Bill Crothers: I don't know—several hundred.

Q65 Mr Bacon: And of those several hundred, how many are going to be in the specialist commercial fast stream?

Bill Crothers: Again, I don't know, because we have just advertised it. We will have to attract them in.

Q66 Mr Bacon: You must have some notion of what you expect. You must know how many slots you have.

Bill Crothers: No, because we will take as many as we can get.

Q67 Chair: That is you, but what about in the Department?

Bill Crothers: No, no, no—we will get them in, they will be attracted within my function and we will deploy them out to the Departments. I would like to see 30 or 40.

Q68 Meg Hillier: Can I ask about growing your own? I have had the privilege of working with the civil service, so I know about the ups and downs. There were some very talented people who had not come through the fast stream. Fast stream wasn't a panacea by any measure—in fact, it meant that some people were overconfident and overambitious, while some of the people who had gone through a slower route were equally if not more capable. Some of them had direct experience of management of contracts, and they never saw the light of day. How do you make sure you get that? You are being very ambitious, but this is very complex.

Bill Crothers: Meg, I really don't want to give the impression that it is a panacea, and I don't want to come across as defensive. I think we need to grow our own.

Q69 Meg Hillier: How are you going to do that?

Bill Crothers: We need to get apprentices out of schools—we have got to build links to schools and try to attract 18-year-olds. We have established links with half a dozen universities. This is a good time to attract graduates to join the civil service. The fast stream is a component.

Then there is senior recruitment. John Kingman and I are doing a systemic review of the commercial capability of each Department. We will report in a few months, but we have early findings. The commercial group is 4,000 people across government—people in Departments and in the Cabinet Office. Only 3% are in the senior civil service. Compare that to best practice and it is probably half or less than half. Of the people in the commercial group, only 55% have got a professional qualification, and it tends to be from an organisation called CIPS.

Q70 Chair: Do you know whether there are any permanent secretaries who have ever directly run a contract?

Stephen Kelly: Has any permanent secretary—

Chair: Directly been responsible for a contract?

Bill Crothers: Mark Sedwill, whom Meg will know, was—

Chair: He never ran a contract.

Bill Crothers: He was the SRO for a contract with IBM.

Chair: He never ran it. Somebody in his team ran it.

Bill Crothers: I dealt with him at the time. He was pretty hands-on. He was face-on with the supplier.

Stephen Kelly: I would say there is an example of someone who is very operational and really pushing ahead on the commercial agenda. Bill has been involved in that. Bill is hiring three commercial directors into the Departments. To give you some data, the commissioning academies put through about 270 people. I have just had a whisper in my ear saying it is 40—

Q71 Meg Hillier: And that is a six-day training course.

Stephen Kelly: Yes. We cannot take them out of their day jobs for three years. We have to balance the ongoing workloads. We are dealing with a massive beast here: 100,000 contracts. We genuinely welcome the spotlight being put on us. I will give you a tiny bit of good news at the end, but, in terms of our MPA, there are 300 people with a lot of project and commercial skills. About 1,800 people have gone through the online training. On the commercial fast stream that Bill was going to talk to, our target is about 40 people.

We are doing some of the crazy things that you tripped over two years ago. We were buying boxes of paper at extraordinary prices. For example, we were buying it at between £9 and £73, and you guys called us out. Our Minister was Francis Maude. We are now buying it at between £9 and £12 through aggregation and centralisation, and 75% of all Government paper is bought at the lowest cost, so we are starting to have an impact, but it is a mammoth task.

Bill Crothers: Can I just say one more thing before you move on? I said that 3% of the commercial specialists were at senior civil service level. That approximates to deep experience. I do not think we should assume they have all got commercial experience, but there is an approximation. By looking at what industries and other companies do in the private sector—we have done this by benchmarking—we estimate we have about half as many experienced people as we need and about twice as many inexperienced people—junior people—as we need. So we need to double the experienced cadre, and we need to halve. By the way, overall, that means we reduce probably by about 30%. More people is sometimes less effective. Reshaping that group is my No.1 priority over the next 12 months. It is not an easy task.

Q72 Mr Burrowes: So when will the Departments have sufficient capacity to deal properly with contract management?

Bill Crothers: Vince might want to talk about the Justice Department. You have mentioned some issues. On remuneration, it will not be tomorrow.

Q73 Mr Burrowes: But how do you assess capacity going across Departments? Which have got the capacity and which have not?

Stephen Kelly: Bill should probably talk to this Kingman-Crothers review where we are doing four Departments, with huge support from people such as Jon Thompson and Mark Sedwill, to give you a caricature of those four Departments and where they are.

Q74 Mr Burrowes: We have heard about Justice and the Home Office, and they were pretty realistic and honest in saying that experience and expertise were lacking.

Bill Crothers: We need to be really honest in assessing the commercial expertise of the people we have. That does not mean they are bad people; they may, reasonably, have a role outside managing contracts or they may not. But we have to be really honest and to do a proper assessment of capability. Then we need to recruit, and you cannot recruit quickly. If you ask me for a period, it's a year.

Q75 Mr Burrowes: A year? You say this car crash prompted a whole load of action, but how much came out of this? There are still some large contracts about with some large suppliers. How much assurance can we have that you have got it and that the commercial professionals have got it? You could have got it back in 2009, when you made recommendations across Government on good practice and all the rest of it. How can we have assurance that a car crash is not going to happen in the next 12 months?

Bill Crothers: It is not zero. We need to improve, but it is not zero.

Chair: It is not what?

Bill Crothers: Our capability is not zero. We need to improve it—it's not good enough; it needs to get better.

Q76 Mr Burrowes: What is the risk within the next 12 months?

Bill Crothers: There are control devices. Will they be missed? Maybe. But there are control devices, such as the MPA—having someone like Manzoni is a big—

Q77 Mr Burrowes: Okay, but do the permanent secretaries across the board get that?

Bill Crothers: There is a group that is mentioned—I think it is a really good development—in the NAO Report. It is now a regular group, chaired by the Cabinet Secretary. It is now overseeing all commercial matters. A sub-group is attending that. I think, increasingly, the permanent secretaries are getting it. One of the recommendations I made last Christmas in the cross-Government report was that no contract—a sizeable, complex

contract—should be let without a contract plan. No private sector company would let a complex contract unless there was a contract management plan in advance. Therefore, we should not be approving plans without that.

Q78 Mr Burrowes: But the NAO says at paragraph 12 that senior managers and civil service departments “have not taken contract management seriously.” Can you, hand on heart, say that they are?

Bill Crothers: I think that this Committee has helped. I think the press has helped. You only have to read the press and read your reports to know all the contracts that have not gone well. In a funny way, the Serco and G4S episode helped. John Kay is a great mandarin, and he said, “Never waste a good crisis.” What happened, coming out of Serco and G4S, was that we reviewed all the contracts across Government. We saw that there were practices that were bad. We also saw that we needed to get better. I listed a bunch of recommendations and themes, and now that is being monitored by Jeremy—by the Cabinet Secretary. So I absolutely assure you it has moved up the agenda at the top of the civil service.

Q79 Mr Burrowes: You said it will take at least 12 months in terms of capacity. But where are we on senior managers taking contract management seriously?

Bill Crothers: I think it’s patchy, isn’t it? With some, it’s their experience—some are more comfortable, some are less so. It is moving at an uneven speed—that is the truth.

Q80 Chair: Bill, you looked at 60 contracts and 34 had problems around billing. You gave us a figure of 100,000 before. It is really a bit scary to read in the Report: “Given the flaws in contract management controls across government, it is in our view probable that other instances of overbilling have occurred across government’s wider contract portfolio.”

Bill Crothers: The commercial professionals who do have expertise tend to do two things. They either do procurement—they are running procurements—or they are solving problems. What they ought to be doing is doing work before procurements. They ought to be thinking about how the contracts are smaller. They ought to be engaging with the market. They ought to be avoiding the problems. We do not have enough capacity and capability at the minute, so people are doing procurement and doing problems. We need to get more people and more capacity, so that people are being more thoughtful.

Stephen Kelly: Mr Burrowes, there is a chart on page 49 of the Report, which I think is excellent. Historically, we put all the emphasis in the wrong place, running procurements, hence profiles of projects in the past had two or three-year procurements. We spent no time understanding what the market could do to solve the policy and land it or to deliver operational efficiency, and very little time on the contract management. All the value for the

taxpayer is in working with industry to get stuff that works and then managing the hell out of it and getting operational efficiencies.

Q81 Meg Hillier: This brings me to the big point. On Monday we heard an awful lot from two permanent secretaries about how this process has changed, how that process has changed, and both NAO Reports really focus on the process. Today we have talked quite a bit about upskilling and there was a bit of that on Monday too. Do you think that the bigger picture may be about the very nature of the contracts that are set and the idea that actually the civil service is not a very good client? In construction, the idea of partnering has been in for some time and that really worked to deliver value-for-money efficiencies and a buy-in by both sides about the outcomes, not just the outputs. Is that part of your thinking? Where are we now compared to where we need to be?

Bill Crothers: I was thinking about this. I caricature it, but two or three years ago the suppliers had more power than we had. What we did was introduce a number of policies that have increased our power, so trading, acting as a single customer, we now aggregate the view of the commercial relationship across Government. We have increased our power, and in doing so we have diminished the power of the suppliers. That helped level the balance. Suppliers are now increasingly figuring out how to deal with that, so their power has gone up again. The way you respond to that is to do what you just said; you have to co-operate and work together. To do that is not policy; to do that is capability. You need people who can apply judgment with confidence—and, by the way, if they are going to take an action, they are prepared to come here and defend it because it is the right thing to do, not because they think it is what you will agree with. They need to be confident and say “In the private sector, good practice, that is what we’ll do.”

Q82 Meg Hillier: So in all your training—getting people brand new in from university, apprenticeships, training people up in-house through six days of training—and given what Ursula Brennan said along the lines of, “We were looking for the wrong things in contracts. We were watching a financial indicator, but not always looking for the outcome for the customer,” how can you be sure that you will build that in? When I last asked a Cabinet Office Minister about how much was going to smaller businesses, for example, it was a nice, well worded, civil service-y answer saying that we are “on target,” but there is quite a gap from where we are now to being on target for that. It seems to me, again, that the civil service looks at the risk of an unknown—we talked about buddy here before and the MOJ. How strong is the civil service now and how strong will it be when your utopia arrives? Will it be savvy enough to ensure that it has a smarter relationship and also that it assesses risk sensibly?

Bill Crothers: You know, I don’t think it is ever going to be good enough. We will not reach utopia; we will just get better. Anyone who thinks this is going to be perfect—we will never get there. We can improve a lot from today and we just need to keep going.

Q83 Meg Hillier: What about the risk issue in particular? The civil service is very risk averse.

Bill Crothers: Let me tell you, Meg. That chart, the graph you saw, I will illustrate that with an example and I think you will be surprised, maybe disappointed and maybe pleased. A Department was running a procurement; they started the procurement and they asked bidders to bid and they got one company bidding. Typically, the Department would say, "The market has spoken," and they would progress with the procurement with one company—the one company was the incumbent. We worked with the Department and did the procurement: we restarted it and did it in a different way, which is the beginning of that graph, and we ended up getting six or seven companies to bid. The result was a 70% reduction in price, like for like. The starting price was £50 million and we ended up getting a 70% reduction. That contract had been running for either five or seven years, and I reckon we had been paying more than market rate for, let's say, four or five of those years. That is four or five times £30 million that we had been paying over the odds. That is that graph coming to life. The people who spent time in doing that, from the Department and from the Cabinet Office, apprenticed and learnt that by doing it differently, you can make real savings. Next time, 10 people will do it differently. That's it in a nutshell.

Q84 Meg Hillier: And at the moment they do not get a bonus for that kind of behaviour?

Bill Crothers: There not incentives and or bonuses and I think there should be, but it is always a balanced scorecard. You have to be careful because you do not want wrong behaviours, but I do think we should be rewarding people for great performance and you need to be really thoughtful in what great performance looks like.

Q85 Meg Hillier: Obviously, at the commercial centre, you are focused a lot on the money. That is very important, but for some of the services that Government procures, value for money has to be in there, but it is not just about the screwing down to the lowest common denominator. How much do you measure the outcomes?

Bill Crothers: No, it is three things, Meg. We talk about a three-legged stool because a stool needs three legs to stand on. One is commercial performance, that is, the right price, the right pricing and so on. You get the right price on the deal and if you do not manage the deal, within 18 months the value you negotiated will have disappeared. You lose 5% every month. That is what I tell people and I think it is right. You need the right commercial performance, not in the event but always.

Secondly, you need good service performance. We have typically too many KPIs. Some contracts we have tens if not hundreds of KPIs and we miss the point. The purpose is to make something happen, and we end up with people measuring and managing hundreds of KPIs on occasion. We need good service.

Lastly, we need something that this Committee has covered in the previous session. You need them to be good corporate citizens. You need them to behave as a corporate citizen of the UK. Those three things come together and that's what we need. So it is not all about money.

Stephen Kelly: Can I just add, Meg, it is also different by category? What has happened in the past around, say, technology, storage or computing, is that typically the half-life of the cost is two years. Every couple of years the cost of the components halves. Government historically have been locked into these long-term contracts where there is a CPI increase. The only thing I have brought along today is my little chart, showing effectively that Government is paying this and the component price is doing that, going down. That is madness.

Q86 Chair: Is that IT?

Stephen Kelly: Yes. Things like tagging technology? Apple is coming out with a watch. That sort of technology will be on this sort of stuff in 10 years' time. Why would we be locked into long-term contracts and not get an advantage of either the arbitrage service model or lower cost components? It is sector specific, but generally the things Bill says still apply to the whole gamut.

Meg Hillier: I just need to declare an interest. My husband is non-executive director of an organisation that might, from time to time, bid for Government contracts.

Q87 Austin Mitchell: I am not going to be outdone by anyone in being obsequious to the National Audit Office, so let me say it was a good Report. It does arouse concerns in my mind. It gives us a black period from 2009 to 2013. Concerns are raised about the control and effectiveness of these outsourced organisations. The Public Accounts Committee reported on it in 2009 and the NAO in 2008. Nothing much happened. Then came the election in 2010 and in came a Government that is outsourcing daft. It was busy peddling everything, often outsourcing, and just wanting to get rid of everything. Now suddenly because of this cheating by two of the bigger companies we have a concern. You have responded to that concern very well. We have got lots of good intentions. Would you agree we have wasted four years?

Stephen Kelly: No, I think a lot of the work was ongoing in terms of building capability, the commissioning academy and bringing in private sector skills. All of that and the control environment that the Minister for the Cabinet Office established caught a lot of these. We reported savings, audited by the NAO; in the last fiscal year we saved the taxpayer £14.3 billion.

Q88 Austin Mitchell: You are playing catch-up now.

Stephen Kelly: No. Even if we look at 2010-11, things like supplier renegotiations that Bill led with the team to reset and recast value for money for the taxpayer were very effective.

Austin Mitchell: That is a very sage observation.

Chair: I think you have done the savings as different from contract management.

Q89 Austin Mitchell: Just let me say that, while we have got lots of good intentions and the Report brings that out very well, effective control, this kind of new monster in our lives, needs several things. It certainly needs open books. I don't know how many of the books are open. It needs better IT on the part of the civil service to know what is going on—

Stephen Kelly: Supplier intelligence.

Austin Mitchell: —to assess not only the contract—that is a section of the civil service—but also the performance on the contract. We do not have that yet, do we?

Stephen Kelly: I think we are on a journey here, quite clearly. There is tons more to do; I hand my head in shame at that. Bill, why don't you take us through the last four years and the plans for this year—what has been achieved and what is still to do?

Bill Crothers: I truly think it has been a journey. We could maybe send to you, along with the MOJ material, something I sketched out. Four years ago—it seems unbelievable now—we did not know who our biggest suppliers were across Government. We did not know how much we spent with them. As an example, we now have a little function run by an MIT graduate out of Morgan Stanley.

Q90 Austin Mitchell: We're getting there but we have not got there yet.

Bill Crothers: No, but she now knows what we spend, what is in the pipeline and what contracts we have. What's more, she listens to the calls these companies have with City analysts and informs us what is happening. The contrast is enormous. That was not just in the last year; it has been the last four years. It has been a journey and, by the way, it will continue for another four or 10 years. It has been moving.

Q91 Austin Mitchell: So are we getting there?

Bill Crothers: We have a long way to go.

Stephen Kelly: It is true to say that last summer was a wake-up call. It was a bit of shock treatment, and it is well characterised in the NAO Report.

Q92 Mr Bacon: Mr Crothers said that you negotiate a contract, you get a certain amount of benefit from it and it then erodes by 5% a month. Do you think, Mr Kelly, that what Mr Crothers said about the value of the contracts and how they get eroded is also true of how people behave inside organisations? After the foreign national prisoners scandal in 2006, someone told me that there was a mode known as “hyperactive” in the Home Office. Yet, here we are, eight years later, and we are about to get a Report from the CAG on—guess what?—the management of foreign national prisoners. My question is: do you think that what Mr Crothers described also applies to the behaviour of people inside institutions? You have, say, 5% erosion every month and so you need another massive wake-up call 18 months, or four years or seven years later.

Stephen Kelly: I think there is a risk of that.

Q93 Mr Bacon: How do you prevent it?

Stephen Kelly: You have to build the capability. We are proud of our commercial capability in the civil service. It’s up there on the pedestal with policy, in terms of the culture. It is recognised and valued. The permanent secretaries of the future have operational and commercial experience because they are running big businesses and contracting out lots of services for the public. Secondly, it is definitely the case that your Committee, our Minister for the Cabinet Office and we ourselves keep us absolutely on task for delivering the changes. We could also talk about the new chief executive for the civil service, to be appointed hopefully in the next couple of months.

Q94 Mr Bacon: Is that the chief executive of HMG?

Stephen Kelly: Yes, for the civil service. They absolutely have to be accountable for raising the whole calibre and accelerating the programme, because fundamentally what we are talking is just common sense.

Q95 Chris Heaton-Harris: We have heard lots about being on a journey. I would like some sort of description of what you inherited when you arrived. How was contract management viewed within Government before you arrived or when you started?

Bill Crothers: I spent 25 years in the private sector, but I have been a civil servant for seven years, so I have been here quite a while. Meg and I worked together in the Home Office. Let me illustrate with an example: I employed lots of people to run the procurement for the national identity scheme—ID cards. In fact, there were something like 450 contractors when I arrived. We ended up putting all the contractors out but kept about 50 as consultants and employed about 250 permanent staff. We did the procurement and, once we signed the contracts, I was amazed because they all wanted to go. The culture in the service was that the glamour was in the procurement, and contract management was just handed off to “the business”. They all wanted to do the next procurement.

We recently changed my title, which is somewhat symbolic and somewhat about driving change. I have gone from being procurement officer to being commercial officer and I have stopped using the phrase “procurement profession”, because people see it as just the narrow centre of that graph, when it is actually a commercial business acumen. The example was that people would not stay to do contract management, because it was just not the place to make your career—I do not know whether it was second, third or fourth class.

One other example: a company was bidding and I said, “I know they are in a major dispute with another Department. I will take account of that,” and I was told, “No, you can’t.” It was a matter of practice and policy that each Department was the client. Today, if we see something happening in another Department, we go and take account of poor performance. It was amazing that each Department was a stand-alone client. I could not believe it. I went to the Office of Government Commerce and other people to ask if that was right and they said, “Yes, absolutely.” So the practices have changed dramatically, but not enough.

Stephen Kelly: We could give you stories about £68 for a power cable for a PC and then you go to Amazon and it is £10. It was crazy—you cried for the taxpayer.

There are two things that I think are still issues today. Because we deskilled the civil service, consultants were doing loads of great work, but the system, for some reason, had developed almost a drug addiction for them. So we have a business problem; bring in armies of consultants and graduates off the bus and train them on our dollar, and two and a half years later procurement goes out, all the consultants disappear and you get crashes and bad outcomes, because we do not have the accountability, business ownership, business architecture or a clear understanding of the outcomes. When I was a CEO, I worried about the sense of responsibility on my shoulders, but that was not mirrored here. I did not hear people asking, “Where is the taxpayer in the room?” The taxpayer should be on our shoulder, because they are a key stakeholder.

I still think we are challenged in the civil service. The default position is to go and get consultants, because experience, and especially operational experience, is not always valued. Bill and I are sitting here and we have done stuff 30 times before in the private sector successfully—we know what great looks like—and yet the system will go and get inexperienced consultants to do the same thing, which is maddening. We as a civil service have to build a capability to build the confidence to say, “We don’t need those guys, because we can do it better ourselves. They may be 27 years old and fantastic at what they do, but we have done this 1,000 times before, so we know what we are doing—we are grown up.” We need to change that.

The other thing, which appals me, actually—certainly before we joined here—is the whole culture around ethics. We have a got a step change, and I think this is less and less. Bill and I are almost puritanical about hospitality. When I asked about hospitality here, I got the answer of what hospitality we give to external people. I do not like invites to Formula 1 or to the Wimbledon men’s final and I do not do Henley, but certainly before I know a

company that had a £1 million budget around Wimbledon and civil servants were there. I believe that if you do that, your judgement becomes contaminated—it is as black and white as that. To be really good, this system needs great clarity. Where there is ambiguity, stuff goes wrong.

Q96 Chair: How many Departments hold a hospitality register? We did ask on Monday and I managed to get—

Bill Crothers: I do not know. We would probably need to write to you, if you like.

Q97 Chair: They should all have them.

Bill Crothers: They should have it, yes. We should probably write to you about that.

Stephen Kelly: They should do. We do know, because Bill instigated a supplier survey. We wrote to all the companies—about 33—of the £39 billion and we asked them loads of great stuff. On patents, there are about 600 registered in the UK—all good news for the UK economy. Apprenticeships: there are over 10,000, which is all good news. Taxation, which is close to the Committee's heart, in terms of being good corporate citizens in the UK.

A thing that still worries me, because I still think it is the tip of the iceberg, is that almost £500,000 is spent on hospitality entertaining civil servants and I think that that is wrong. But it is changing. Certainly the old days of the Wimbledon men's final and all those sorts of things are diminishing and it is not just us saying that. If you go to any of the large private sector companies, they will say that they have had enough of that as well.

Chair: I am not sure that the BBC have.

Q98 Nick Smith: I am trying to understand properly the whole tagging billing shambles. Mr Crothers, on Monday Ursula Brennan was here talking about open book and KPIs. As you said earlier, she said that there were too many KPIs, which meant that we could not see the wood for the trees. About 20 minutes ago, you said that there might still be more tagging billing-type shambles out there. You said that it was a good wake-up call and a crisis that you should make the most of, so when it all occurred I bet you had some sort of review of what was going on across Government around that type of contract or business arrangement. If you did have such a review, can you tell us a bit more about it and what you found? Secondly, what specific KPIs would be needed to try to avoid that sort of difficulty in future?

Bill Crothers: So, open book—when I was here last year, I said that about a third of our contracts were open book. Since then we have taken a broader sample: we looked at about 200 contracts—you go to the bigger contracts over £X million—and we found that the proportion is 34%. My estimate of last year was not bad, right? If you look at the higher level contracts, it goes up to about 39%, so a lot of our contracts are open book already.

We are running a trial, an exercise. Before we extend open book—I think we should do more of it—step 1 is to improve our capability. If I am a supplier with a contract and I give you a breakdown of profit, costs and so on, you need to understand what to do with it. You need not only accounting but contract accounting expertise. Some of the accountants, such as Amyas, will understand. If you are a US firm reporting in a way that is consistent with US GAAP accounting, you have different ways of recording profit. We need people who have expertise in that—people who, if you ask what a 10-K is, understand that it is a financial statement in the States and know how to read it.

Part of the capability we require is contract accountant expertise—not many; probably about 30 or 40 across Government—to make use of what we get today. The open book we have is at best patchy in terms of what we get, and at worst just poor, in that we get literally megabytes of data—financial information—every month. We then create an industry, because our guys ask questions. All we do is put in cost. All you actually need is information every six months and for our guys to act responsibly. Companies have to make a good, healthy, competitive financial return—a profit.

Nick Smith: Sure.

Bill Crothers: It is all linked. We need the suppliers to do better, we need a better understanding what it means, and it comes back to the fact that our capability needs to improve.

Q99 Mr Bacon: Would you say that you currently have lots of information but not enough intelligence?

Bill Crothers: Correct.

Q100 Mr Bacon: And how far away from having intelligence are you? The Government spends a lot on intelligence—we have a number of intelligence services.

Bill Crothers: As I said, it is patchy at best. Interestingly, the MOD is often criticised, but it is probably more mature at open-book and contract accounting than other Departments. You would expect that by the nature of it. They have a big standard—it is called the yellow book or something. We should copy them. We did run a recruitment exercise to try to recruit contract accountants: we got two. I wanted a dozen, but we got two. It is good news that we got two, but we need many more, so we now need to change the salary and figure things out. The answer is that we do not have enough and we need to improve. I am sorry if I sound like a broken record, but although making more contracts open book would be desirable, that is not the answer. The answer is improving what we do today and us doing it, because we are not good enough.

Q101 Nick Smith: Okay. Can you come back to whether you think there will be more billing issues and what would be important in order to avoid them in future?

Bill Crothers: The report I led that we wrote was a review of all the Serco and G4S contracts across Government—28 contracts. We developed seven themes—eight recommendations but seven themes—and a plan was developed in each Department. A lot of what we have talked about today sounds like it is the centre just doing things, but we need the Departments to enact each of those plans, and for those plans to be monitored by the group that the Cabinet Secretary chairs.

I give you a quick example: the number of change requests. Mr Bacon will know that, in an IT contract, change requests are often a problem in the lack of housekeeping and discipline. One contract alone I came across recently had well over 1,000 formal contract change notices—actually, it wasn't an IT contract—to the point that we and the supplier were in a dispute and neither party knew what the contractual obligation was. Each side had employed lawyers to reconstitute the contract and I characterised it as two drunken boxers. We just didn't know what the obligations were. So there is one thing—control of contract changes.

Q102 Nick Smith: That was a very good conceptual response, but do you have any hard concerns about particular contracts that you picked out in that review that you are looking at in more detail?

Bill Crothers: There were several in the Report that we asked the Department to look closely at. You have looked at some of them. The Work programme was one. The Report says that the Work programme should be looked at closely and we asked the Department to do that, and we continue our dialogue with the Department on that.

Q103 Chair: Can I come in on one thing? It drove me mad when I read this in the Report. DWP spends a load of money on consultants to get an external review of its contracts—that is on page 14. It decides that that is how it is going to respond to the crisis over Serco and G4S, but on page 18 it says that it didn't look at overbilling.

Bill Crothers: They did. I don't know what your Report says.

Chair: It says they didn't.

Bill Crothers: Okay, they did. They looked at—

Q104 Chair: On page 18, paragraph 1.3, you say there, Josh, they “did not look for overbilling”.

Bill Crothers: I can assure you—

Chair: Read the Report.

Bill Crothers: They discovered that payments were being made which they would prefer not to have been made.

Q105 Chair: Which should not have been made.

Nick Smith: Say that again.

Mr Bacon: Which they would prefer not to have been made?

Bill Crothers: What they found was errors and the value of those errors was recovered. What wasn't recovered was the value of an extrapolation of those errors, so the errors were based on a small sample and you should extrapolate it further.

Q106 Chair: So they took the small sample, but they didn't take the implications of that.

Bill Crothers: That is what PwC found.

Q107 Chair: Are you pursuing that, you guys?

Joshua Reddaway: Can I just clarify that at paragraph 1.3, with the five contracts there, that is the DWP's separate view. So it did test for billing as a result of the cross-Government review, which is what Bill is talking about, so we are in agreement.

Q108 Chair: Are you pursuing the fact that they found some overpayments and didn't pursue that properly for the total value of all the business and only looked at the sample?

Joshua Reddaway: We wrapped that up into the Report that we have just done on the Work programme.

Q109 Chair: I didn't pick it up. Is this the £31 million bonus?

Joshua Reddaway: Yes, it is.

Bill Crothers: You have looked at it. The NAO has looked at it—Josh has covered it.

Q110 Chair: So when they say they are pushing down the bonus, they are getting back money they shouldn't have paid out.

Joshua Reddaway: What we have been told by the Department is that it wishes to renegotiate the contracts.

Q111 Chair: Just let me get it clear to you. If they are doing that, that's not right and you've got to come back to it, because they will still get the bonus, in effect. They'll still get the £31 million, won't they? The only reason it is not in its totality is because, dare I say it—my words—they cheated on what they got on the rest of the contract.

Joshua Reddaway: We had concerns. We put them in the Report and we will be coming back to it.

Q112 Chair: The point was about the bonus. I thought they were negotiating down the bonus.

Mr Bacon: I remember having this exchange with Mr Devereux, if we are talking about the same thing. They had so underperformed on the contract that DWP terminated it. None the less, despite the performance being so bad that DWP felt it needed to terminate the contract, it was required, by the existing contractual terms, to pay the performance bonuses. That's correct, isn't it?

Joshua Reddaway: That's—

Mr Bacon: Unless the contract changes from what it currently says—there are attempts to negotiate it—which is that they are contractually entitled to those bonuses despite being so bad that DWP wanted to terminate. Is that right?

Joshua Reddaway: Yes, and that is in paragraph 2.7 in the Report. That is what it says.

Q113 Chair: But the fact is that the renegotiation is not over the actual level of bonus; it is because they were overpaid.

Joshua Reddaway: My understanding is that they want to renegotiate and that is a desire in the future.

Q114 Chair: Pardon?

Joshua Reddaway: They are now preparing to renegotiate. I do not know exactly what they will renegotiate because it is in the future. It is something that we will be interested in.

Q115 Chair: But the evidence we are hearing today is that there were overpayments on a sample, which were then not spread over the whole contract—the whole business—so the likelihood is that there were more overpayments that they did not get back. The renegotiation on the bonus is to try to get back money that they should not have paid out in the first instance, not to renegotiate the entitlement to a bonus.

Joshua Reddaway: Would you like a note on the details?

Bill Crothers: Can I help, because it is complicated? The review across all the contracts identified a number of contracts that we suggested the Departments should look at. Each Department has taken that seriously and is doing that. On the Work programme—

Q116 Nick Smith: Sorry, can I interrupt you for a second, because this is complicated? The Departments are looking at the contracts that you found out may be an issue in your review. When will we find out what is happening to those?

Bill Crothers: I believe what has happened is that it has moved into normal business. One of the recommendations that I made was—

Q117 Chair: I do not understand what that means.

Bill Crothers: One of my recommendations was an internal audit in the Departments and that the non-executive directors should pay attention to the contracts that we had in our report, and that the NAO, as part of normal business, should interact with the Departments and see how things have progressed.

Q118 Chair: I think this is one of these issues where you should come back to us on a Thursday morning.

Sir Amyas Morse: We will follow up and find out. Can I ask a question?

Chair: Have you finished, Nick?

Q119 Nick Smith: Just so I understand, these are troublesome contracts that the Departments are looking at and now the NAO is going to dig deeper and drill a bit further.

Bill Crothers: Yes.

Q120 Nick Smith: Fantastic. I just wanted to confirm that.

The last question I was trying to ask was: can you talk us through what you think are the important KPIs for avoiding this sort of overbilling shambles that we saw with the tagging contractors?

Bill Crothers: I will not give you them all, but I will give you a few to illustrate.

Q121 Nick Smith: Just give me three really blunt, simple things that will make a difference.

Bill Crothers: Good reporting. We have a number of contracts in a Department—you cannot possibly manage everything; we may want to bring Ian in. Good practice in the private sector would be management by exception: you set some tolerances and if things go outside tolerance, you get a report. The second KPI that I would have is that the report goes to the top of the shop. The equivalent of the chief executive in an operating unit—in our world, that is the permanent secretary in a Department—should get, on a regular basis, a report by exception of how contracts are inside or outside tolerance. Those are two KPIs: that you have to report; and that the report is going to the chief executive in an operating unit. A third KPI would be the number of formal, contractual change requests that happen in a contract. If there are too many in the early stages, you probably have a problem because the specification was not clear. That is probably an indicator that something is going to go wrong. I could do two or three others.

Q122 Chair: Okay. Amyas.

Sir Amyas Morse: Thank you very much. I have just a couple of things. First, to come back to the question of “too big to fail”, I take it that we would both agree that there have been years of unplanned and disorderly growth in the market share of these companies. They now have quite large positions, and until recently we did not even know what they were. If you agree with that, my question is: are we now managing those markets or are we simply better informed about them?

Secondly, as regards capability, I think that you are doing a lot of very good things—you know that, and it is in the Report—but it is dangerous, however, to run too much of a good news story when you have even said yourselves that it will be quite some time before we are equal with industry, and even then, they can always up their capability. So what are you doing? You have given a bit of a description of tilting the odds and developing a contractual approach where we do not need to be equal, because the odds are in our favour, but I do not think that we are at that place now. I would suggest that it is a dangerous vanity to say, “We’re as good this lot,” because it is quite evident from the results of the negotiations that we generally are not. Optimism bias is something that we stumble over all the time. Please, in all the good things that you are doing, can we not have too much optimism, cheery-story bias here?

Bill Crothers: What I have been trying to do is to illustrate progress. There are two things: progress and priorities. Next year, the big priority is contract management and capabilities. Stephen has a phrase: “We are in the foothills.” I talked to Ian this morning and we both agreed that this is the beginning of, say, a 10-year programme. I am optimistic about the improvements that we are making, but we are way off from where we need to be. If I have given a different impression, Amyas, I apologise.

Sir Amyas Morse: But you don’t deny that we could lose a lot of money in the meantime, because we are not—

Bill Crothers: Of course.

Sir Amyas Morse: We need means of preventing that—that is what I am trying to get at with this question. While we are developing these wonderful skills and capacities, which is all great and I approve of and support that, what are we doing to protect ourselves?

Stephen Kelly: A number of things. One is the control environment in which someone grown up has a look at things. Secondly, there are things such as the model contracts with Government and simpler structures with a lot more common sense. The other thing, to which I will come back, is that colleagues in the Treasury are doing work around—this relates to your first question—the marketplace to ensure that there is sufficient competition and a vibrant, competitive marketplace offering services in each of the key areas. You know lots about what we are trying to do on the SME agenda.

Sir Amyas Morse: Are you saying that you think that the market is being managed now? Is that what you are saying?

Stephen Kelly: In this area, I think the market is very thin. I have one other chart—indulge me. This is not this market, but it is the same sort of thing. It describes 77 acquisitions by a company and how those acquisitions have gone—

Bill Crothers: Over six years.

Stephen Kelly: Over six years, £50 billion of acquisitions. The reality is that we have business models—

Q123 Mr Bacon: Sorry, what company was it that you were waving at us?

Chair: Capita.

Stephen Kelly: I will write to you and give you a copy.

Chair: It is Capita, isn’t it?

Bill Crothers: No, it’s not.

Stephen Kelly: It is not, actually, but it could be. It is a different sector.

Q124 Mr Bacon: What is the point that you are trying to make with that illustration?

Stephen Kelly: My point, in response to Amyas, is that we are dealing with a marketplace that is consolidating. There are fewer companies around and we want choice. We want a vibrant, competitive marketplace. We are swimming against that tide. How do we actually do that? Again, there is—

Q125 Mr Bacon: But we have the Competition Commission. The best question of David Sutch—Screaming Lord Sutch—of the Official Monster Raving Loony party was, “Why is there only one monopolies commission?” and they promptly changed the name. You deal with such matters through competition policy, do you not?

Stephen Kelly: Yes, and you deal with it by encouraging new entrants. Are we doing enough on SMEs? Probably not, but there is a whole load of changes that are going to come in during the autumn. We have broadly gone from 6.5%, which you know, and £3 billion was spent with Government back in 2010, and it is now about 19%—

Chair: Maybe we shouldn’t grow so fast and should sort some of these things out.

Q126 Mr Bacon: Actually, Mr Kelly, the example that you were giving is an illustration of the market thinning, but one of the most interesting stockbrokers that this country has ever produced, Terry Smith, has shown very convincingly that lots of mergers and acquisitions destroy value. He was talking about private sector companies providing goods and services mainly to the private sector. I have always had in my mind this question about contracting and perhaps now is a good time to ask it. The cost of the commissioning, which is huge and underrated, especially when it is poorly managed by junior people, and the cost of managing, which is often ignored—12% of PFI contracts are put in a cupboard and never touched, as the NAO told us—should lead us to ask an obvious question, which is not a policy question, but an effectiveness, efficiency and economy question: is there another way of doing it? Because if you did not have all that cost associated with commissioning and the bidding, or with the managing, and you did not have to sit there scratching your head paying lawyers every time you are trying to work out what the contractual liabilities are—if it is all in house—you just manage it: you decide what you are going to do and you do it, and there are no impediments to stop you doing that.

The one way to find out whether that might be a better way of doing it than all this commissioning and external provision is to try it—pilot it in a certain Department. My local council, South Norfolk council, is doing this. Some councils have gone down what is called in the jargon the easyCouncil route—like easyJet—and are contracting out everything, and then they find that Bob Kerslake comes along with his axe, lopping off another 23%, and they have nowhere to turn. Whereas if you bring it all in-house and you have a council run by somebody who is extremely commercially switched on and savvy—and we have; his

name is John Fuller—suddenly you have a completely different environment in which you can be very flexible and adaptable, and deliver much better value for taxpayers.

Chair: I am going to stop you there—

Mr Bacon: My question is: given that that might produce considerable returns, what scope is there for—what consideration is being given to—trying that not everywhere, but experimenting with pilots in certain different places?

Bill Crothers: I do not know if you would regard this as self-interest or not, but in 2012, the CBI did some research. It looked at about £24 billion-worth of business that had been outsourced and concluded that the return—that is, the benefit—on average was about 11%, so they said there is a benefit in outsourcing. However, I think the construct has perhaps been too simple; it has been either outsource or not outsource. I think sometimes when we have outsourced you can see examples where it has been an immature service—you do not know the price and there isn't a market—and we have got the price wrong, and the companies then get a higher price and higher return.

On occasions, with having a mutual JV—an arrangement whereby we form a JV arrangement with a third-party supplier—we keep an ownership stake in that company and if there are excess profits, we benefit, so if the pricing is wrong, we get the benefit.

Q127 Mr Bacon: So we should have kept a bit more of Royal Mail.

Stephen Kelly: Can I give you one example, Mr Bacon? There is not one size fits all. We could talk about DVLA—we are all consumers of DVLA; we renew our driving licence—and I would argue that materially that service got better dramatically in the last 10 years.

Q128 Mr Bacon: It has. Is it true that they are abolishing tax discs?

Stephen Kelly: Yes.

Mr Bacon: Is it all going to go horribly wrong?

Q129 Chair: We are interrupting. With DVLA, it is one of those contracts where there were so many—I do not know what the original value was and what we are paying today. There is a massive difference. What was the original value and what are we paying today?

Bill Crothers: Actually, we did a negotiation in recent months. It is IBM and at peak it was running at well over £100 million per annum. I cannot remember the number, but it has fallen a lot and we had quite a negotiation which was beneficial to us not so long ago.

Q130 Chair: So there was a time when it went through the contract variations, which shoved the price up unacceptably, although it delivered the service.

Stephen Kelly: Yes, but the point there is that we have skilled that team up. The digital team—Oliver Morley, the leader down there—has done a fabulous job of in-sourcing a lot of the key skills, and the service we are getting as citizens is way better. So it is costing less and a better service, and that is an example of where we have effectively in-sourced capability.

Chair: I am going to move to Meg and Austin, then I have a few questions, and then we have to do some Reports, guys.

Q131 Meg Hillier: Two last questions from me, Chair.

First, every time you come in front of this Committee, you sound very convincing—you sound optimistic, even though you give all the caveats—but do you really have clout in Departments, with all the vested interests and all those civil servants whose promotions in the past have depended on changing jobs and not developing this expertise, and with permanent secretaries who have big things to manage, like counter-terrorism?

Secondly, it is still very clunky for SMEs, as you know, to go through the process. When it takes five months or more to bid for a Government contract, they just walk away because it is not right for them. We are missing huge talent, which could revolutionise how government works and keep the market agile and competitive. Mr Kelly, you talked about contraction of the market. Can you just talk through what you are really going to do on that? Both those things are important.

Bill Crothers: Okay. The statistics show that the amount of business we do with SMEs has risen to represent about 20%—it has risen by about £1.5 billion. So we have £1.5 billion more to SMEs since 2010. Where we have probably been most successful is in technology. As you know, Stephen and I visited Tech City in Whitechapel this week, where we had a round table with a number of small companies. We have a device called G-Cloud, which is just a way of companies doing business. Some 90% of the companies that now do business that way are small and medium-sized enterprises. It is only £200 million, so it is in its early stages, but it is doubling every three months. It is the same response I gave to Amyas: I do not want to sound too optimistic, because I am optimistic within a pessimistic framework, if you like. It needs to do much better, but we are doing better.

Q132 Meg Hillier: Do you not think that it is still too clunky? It is the time scale it takes.

Bill Crothers: Yes. We need to keep—every day and every week—helping small and medium-sized enterprises to understand how to navigate this complicated landscape. We need Departments—

Q133 Meg Hillier: Could you make it less complicated for them?

Bill Crothers: We have reduced the procurement duration. On average, that has gone from more than 200 working days to just less than 100. We have taken away some devices such as PQQs, where you are below EU threshold. We have made changes, but we need to keep doing it, because it will take years before the changes feed all the way through to the thousands of small enterprises.

Q134 Meg Hillier: But what about the clout?

Stephen Kelly: I will come back to that. One point from the industry's point of view is that it costs too much to deal with Government. Some data from companies out there say that it is about 1% to 2% of total contract value, if the contract is five to 10 years, to bid to Government. That is two to three times more than it is in the private sector. They put their A-team on the bid, but then we sometimes get B-team players on the delivery. We want that turned upside down and the best people throughout, but we have a responsibility to reduce the cost of bidding to industry because—this goes to Bill's point—we want companies looking at Government as an attractive marketplace to invest.

Secondly, on optimism, I think we are at a tipping point. Indulge me for a second. On the appointment of the chief executive of the civil service, this Committee has been helpful. If I characterise it, the architect for a lot of what we are doing has been Francis Maude, the Cabinet Office Minister. You could argue, if you are a romantic, that it is Maude's movement on digital, on commercial reform, on project leadership—

Meg Hillier: A promotion beckons, Mr Kelly.

Stephen Kelly: This is a symbolic time for the civil service to take the torch and step up. It is either a tipping point, or nothing will change. The chief executive has to be structured to be successful. Questions and ambiguity are normally the enemy of execution and clarity. It is about such things as perm sec reporting and connections to the spending team, because if you are a chief executive without budget and spending responsibility, that is kind of disconnected and does not make sense. You need to have a chief executive empowered with the right structure. With the connection to the Cabinet Secretary and the head of the civil service, Jeremy Heywood, it is almost like, symbolically, Jeremy will become the chair and the chief executive will be accountable for the delivery of operational excellence across Government. It is a symbolic time where we as a civil service step up and say, "We are really up for it," but we have to make the individual male or female hugely successful and give them the levers they need to be successful.

Q135 Austin Mitchell: I just wonder whether we are breeding monsters. You obviously prefer, for your purposes, to deal with big organisations, because they are more predictable, you can do deals with them and they are not likely to go bust in the middle of

the contract and bash public reputation. On the part of the companies, I was surprised at the low profit margin that Soames told us about on Monday. It was 3.8% or 3.6% or something. That very low profit margin means that the way for them is low margins, high growth. They have to grow big and keep on taking on more and more functions, so we will end up with big omni-purpose organisations and an oligopoly, meaning it will be difficult to renew the contract or to get better terms out of the contract, or even to control the contract effectively, because of the power. They can screw up the prices.

Bill Crothers: And that would not be in our interest.

Q136 Austin Mitchell: Can you put a cap on the size?

Bill Crothers: I am not sure you can do that, but—

Q137 Mr Bacon: You can put a cap on how much you spend with them and how much you do in house, to go back to the earlier point.

Bill Crothers: We are doing some of that: no contract bigger than £100 million, encouraging practices that help—

Q138 Chair: But then they buy each other up.

Bill Crothers: There is one thing we can do when they are buying out. Every contract has a change-of-ownership clause. You can use those clauses to your advantage, but typically we have not done so. It is not unusual: small company wins work; big company comes and buys the small company, and gets the contract. That happens. We have an opportunity to stop that contract going by executing a change-of-ownership clause. That just goes to commercial expertise.

Q139 Austin Mitchell: Can you come to deals where the state can cap or share the profit? This is a public service, after all.

Bill Crothers: That is back to open book. Open-book arrangements often have what is called a gainshare. You want to agree a good, healthy, competitive level of profit. You want to incentivise them to do great service to get more profit, and you want to set it at a level so that, if the profit goes above it, we share the profit. Those devices are there today. The execution of them is not always great because we do not always have the competence to understand how to measure and manage the calculation of profit.

Q140 Nick Smith: How many times has that happened: that contracts have been reviewed after buyouts?

Bill Crothers: You mean a change of ownership?

Nick Smith: Yes.

Bill Crothers: I will write to you. I could not say; I don't know. I know one that we used to our advantage, and the advantage we got was in excess of £100 million of benefit.

Nick Smith: Really?

Bill Crothers: I promise you.

Stephen Kelly: To the taxpayer.

Bill Crothers: That was in the last six months, so I know of one.

Q141 Chair: Right, I am conscious of the time and we have to carry on working after we interrogate you. Both Richard and I have two further issues. I want to go to Mr Tyler first.

Having reflected on the conversation and with your experience so far, share with us where you think the key issues are that might remove some of the frustration we feel in this Committee at the inability to manage contracts effectively.

Ian Tyler: This has genuinely been a fascinating conversation. If you unpick a lot of the debate, there is a danger that we are dealing with symptoms rather than causes. We are very keen that the symptoms are addressed.

If I compare how these things would be managed in the private sector versus how they are managed in the public sector, as I tended to do when I came into my role, the first thing you have to bear in mind—it is something we have to have a reality check on—is that there is a fundamental difference between the public sector and the private sector. You cannot replicate private sector practices in the public sector and get the same result.

The fundamental difference is one of accountability. If I sit as the chief executive of a company, I have to outperform my competition every day, otherwise I will die. That is not just a question of value: I will eventually die. That means that, from me as the chief executive through my organisation, if I am to do anything in my business that is strategically important, I want accountability. By accountability I do not just mean nominal accountability, but waking up in the middle of the night worrying about whether we are delivering the outcome. If you look at a lot of the things we have talked about here, the reality is that what is missing is not the processes that we might adopt, or the contingency planning we would have in place. Those are the outcomes of having accountability.

If we are going to address your question about how we can make sure we do not come back here in the future with the same issues, we have to think about accountability right at the senior level of the organisation. If these outsourcing contracts are strategically

important—not all the 100,000 contracts will be, but a few will be—the senior management, however we describe it in the civil service, should be waking up at 2 am worrying about them. When you are doing that, what you measure, what contingency plans you have in place and what your structure is around those things are questions that answer themselves. I do not think you would have the issues that are in this Report in most of the sector in really important outsourcing contracts, because people would simply have been waking up in the night worrying about it.

Q142 Chair: So how do we change that?

Ian Tyler: That is why you have to have a reality check. The public sector will not cease to exist because it fails to deliver on some of these things. What we have to do is to create, in some shape, manner or form, some synthetic accountability—something which, through the process of management up the line, holds civil servants really accountable for what happens. Then you will see a lot of these things change.

Q143 Nick Smith: Define “synthetic accountability”.

Ian Tyler: I say “synthetic” because the consequence in the private sector is that eventually you go bust—you fail. You will fall away or get taken out. Whatever happens, it is actual, it is natural. When I say “synthetic”, I mean you will try to achieve the same objective through a process of management. That ultimately comes down to how people are held accountable and what the consequence of failure is through the management chain. It is not failure at the procurement or contract management level. It is accountability at the strategic delivery level, which is the senior management of the organisation.

Q144 Chair: We have 100,000 contracts. We are at the tip of the iceberg on things going wrong. Has anybody lost their job, or been demoted or moved, for a failure on a contract?

Stephen Kelly: You have shown a lot of interest in the past in the Army recruitment contract. Jon Thompson, the permanent secretary at the MOD, has really grasped that. It was crazy. Two different IT systems. Capita—

Q145 Chair: One.

Stephen Kelly: And now there is one.

Chair: One person.

Stephen Kelly: They have consolidated and the individual responsible is no longer in post.

Q146 Chair: One. That is your only example.

Stephen Kelly: I have just given you one example where I have seen decisive action and good leadership.

Bill Crothers: That which Ian says does not happen.

Q147 Chair: Mr Godfrey, you are a civil servant, so you have a different perspective from Mr Tyler. What do you take from this conversation and from the Report?

Vincent Godfrey: I agree with the two key points of the Report around accountability. If you look at 2008-09, and even 2009-10, accountability for contracts and contract management was very disparate in the organisation and at too low a level, undoubtedly. So if you look at the Ministry of Justice, even in 2008-09, there was not even a central procurement function, and contract management was certainly behind in the pecking order. Procurement was improved first and then, subsequently, we turned to contract management, so that is a significant issue.

The other thing has been in the calibre of the senior people who we have deployed, so I can reflect the MOJ. If you go back even two to three years, we would have had three senior civil servants looking after our commercial portfolio which, as Bill pointed out, is a portfolio that has actually grown. We are now deploying 10, and the majority of those people have been brought in from the outside and they have brought additional skills. So those are the two issues—the calibre of the people we have and the culture that they bring with them, and secondly, as Ian said, having that clear line of accountability front and centre in the middle of the Ministry of Justice, as opposed to spread between agencies at a low level. Those are the two key things.

Q148 Chair: You are personally responsible for the contracting out of the probation service.

Vincent Godfrey: Yes, I am.

Q149 Chair: I was told this week by the National Audit Office that there has been a delay on that.

Vincent Godfrey: There hasn't. We're not—

Q150 Chair: I was told by the National Audit Office on Monday that there has been a delay. Amyas.

Sir Amyas Morse: We were proposing to write a Report on your next round of contracting, and we were told that it was originally going to—

Q151 Chair: We want to look at it again before the election. I was told you had delayed it to such an extent that we were unable to do so.

Vincent Godfrey: I think the easiest thing to do is to give you the current programmes that we are working to.

Q152 Chair: I hate notes on things like that. You are in charge of this, you are accountable, and it is a pretty high-profile programme. Is there a delay now in the letting of those contracts?

Vincent Godfrey: No.

Mr Bacon: I heard weeks ago that there was a problem, but it was only anecdotal gossip.

Q153 Chair: If there isn't, the NAO will be able to report back to us. If that is wrong, we will have you back. I want to ask one final question on those contracts. It is a controversial contract and it will be signed just before the general election. I have heard that there is a clause in that contract that, should there be a termination to the contract, rather than the traditional "through no fault" provisions—so not a fault termination—whereby the contractor would expect to get something like a year or 18 months of profit forgone, the terms in which you are writing this contract will give the potential contractor the entitlement to profit throughout the life of the contract, even if it is terminated. That could amount to something between £300 million and £400 million. Is that correct or not?

Vincent Godfrey: There is, as you would expect, recompense for investments that have been made into the contract. There are two types of termination in the contract. One is for fault; we don't pay any profits and costs and so on.

Q154 Chair: I said no fault.

Vincent Godfrey: So, no fault, there is recompense for cost and profit. It is not straightforward in terms of how you calculate the profits as to where you are in the contract or at what point you are terminating the contract. Again, I can give a detailed note.

Q155 Chair: No, I'd like you to answer because you are the person in charge of this. This is a contract that relates to a pretty contentious issue and is being signed before the general election. I am concerned about value for money. None of us knows what will

happen in the general election. I am going to ask the question and then look at it, because I can't do the two at the same time. Normally, there is always a clause in these contracts, if there is a no-fault termination, that there is an entitlement to loss of profits for a year or 18 months. I have been told that, in the way that you are writing this contract, there is a no-fault termination for the life of the contract, and that that could amount to £300 million to £400 million. Am I right or wrong?

Vincent Godfrey: It is a staged profit repayment clause.

Q156 Chair: Am I right or wrong?

Vincent Godfrey: The answer to the question is that it is a staged payment of profits depending on when we terminate the contracts and at which point we terminate the contracts.

Q157 Chair: Am I right or wrong that the loss of profit would be for the life of the contract?

Vincent Godfrey: Depending on the point at which you terminate.

Chair: I'm right.

Vincent Godfrey: If you terminated at the very outset of the contract.

Q158 Chair: I'm going to say to the NAO—I am not trying to make a partisan point on whether it is good or bad policy—that when we know it is a politically contentious policy with a contract being signed just before a general election, with the potential, were it to be terminated, of a £300 million to £400 million bill for loss of profit for any future Government, that is not value for money and is unacceptable and must be challenged before the event. We should look at that. It is an entire value-for-money issue. Don't mind it at the beginning of a contract; it must be challenged. *[Interruption.]* I can't read that. Amyas, could you read out the relevant bit?

Sir Amyas Morse: "The newly created Community Rehabilitation Companies were planned to transfer into private ownership by autumn 2014 but this is now more likely to be December/Jan" we are advised. Because of that we are not going to be able to comment on that transfer when it takes place.

Q159 Mr Bacon: Is it correct that the transfer of the Community Rehabilitation Companies has been delayed, Mr Godfrey?

Vincent Godfrey: The award of the contracts will be before the end of this year, with the transfer of the companies into the private sector early in the new year.

Q160 Mr Bacon: Is it correct that the transfer of the companies has been delayed from what was originally expected?

Vincent Godfrey: Yes, it has changed from the original—

Q161 Mr Bacon: It has changed from what was originally expected.

Vincent Godfrey: Yes.

Q162 Mr Bacon: So it is now going to happen later than was originally expected.

Vincent Godfrey: Yes.

Q163 Mr Bacon: Thank you. I have a question about the Crown Commercial Service—this is probably for you, Mr Crothers. The Report says that it is “a new organisation with ambitious plans to change how central government buys some £14 billion of common goods and services”, which is all very good. We have before us Mr Godfrey, who is the Crown representative for Serco among others—your CV, Mr Godfrey, says that you are now the Crown representative responsible for the Government’s relationships with a number of strategic suppliers, of which Serco is one—and we have Mr Tyler, who is the Crown representative for G4S. I cannot say anything against Mr Tyler, not only because he has a very distinguished private sector career but because he is the chairman of a housebuilder; I am chairman of the all-party group on custom-build housing, so he is self-evidently a good egg. But I am trying to understand the structure of this and get a bit of clarity. You have this nascent body and a Crown representative who is apparently responsible for the relationship with a commercial supplier—in the case of Mr Tyler, an external non-executive chairman, G4S is the body for whom he is the Crown representative—and another big supplier, Serco, for whom one of Her Majesty’s civil servants is the Crown representative. Is this a transition period? What is happening?

Bill Crothers: It is a transition period. Two years ago, we had no external Crown representatives but we did have Crown representatives, about 35, and they were all civil servants. The first one we appointed was Stephen, who was a Crown representative before he took on this role. Today we have 17 like Ian Tyler, who are external, and we have five to ten—something of that order—who are civil servants. The intention is to replace all the civil servants with experienced private sector people.

Q164 Mr Bacon: Really?

Bill Crothers: Yes.

Q165 Mr Bacon: I thought you would say it would be the other way round. I hugely welcome the expertise of Mr Tyler and people like him being available to Government; that is incredibly important. But I thought you were going to say it was the other way round, on the basis that it would be a good idea if Her Majesty's civil service had people in it who have these skills on a full-time basis.

Bill Crothers: Not in the short term. Vince is doing two jobs: he is commercial director for the Ministry of Justice and a Crown representative for Serco across Government.

Q166 Mr Bacon: How much business do we do with Serco each year?

Bill Crothers: I think it's a matter of record that it is over £1 billion.

Q167 Mr Bacon: I would have said £1.2 or £1.3 billion. Mr Godfrey, you have several other strategic suppliers as well, do you not?

Vincent Godfrey: I have three.

Q168 Mr Bacon: What is the total value of the business that Government does with all of the suppliers for whom you are the Crown representative?

Vincent Godfrey: For the three suppliers that I cover, it is just over £2 billion, with Serco accounting for £1.2 billion.

Q169 Mr Bacon: So you have the central oversight role for the Crown in relation to £2 billion-worth of business? That is in addition to your day job, and each of those is only, as it were, one third of your moonlighting job.

Vincent Godfrey: Yes.

Q170 Mr Bacon: I would have thought that is probably not quite the right balance.

Bill Crothers: No, it is not. We now have 17—nine more than a year ago. We are to appoint another three or four in the next month—we are just awaiting clearance with their other responsibilities. One of them will likely replace the Serco relationship from Vince and they will have, as Ian does, experience of corporate governance at a senior level, because

that is what we need for the Serco relationship. We have someone else who had a very substantial role in property management. She ran a big operation at board level. She will likely be appointed and we will ask her to take responsibility for one of the facilities management property companies.

Q171 Mr Bacon: Once you have it where you want it, will they all be people like Mr Tyler—private sector people coming in to do a job part time, with one supplier each?

Bill Crothers: I would like to get to one supplier each. In five or six years, we might replace people like Ian—not Ian exactly—with civil servants, but we have so much else to do and we can get these guys in, so for the time being, it is good to—

Q172 Mr Bacon: People in the right portion of their career—the non-executive chairman level.

Bill Crothers: Yes. One of the reasons we do not have more is that, in my experience, we can only get about six every six months effective. We have to spend time with them and it is a difficult, complicated environment. Our rules are our rules and they need to understand how they work. Also, right or wrong, I personally interview every single one. It is about quality, not quantity.

I will spare his blushes, but Ian has very substantial private sector experience. I will not go through them all, but we have someone who is a very successful entrepreneur in the digital space—a founder of Freeserve when he was 29, so a £1.9 billion IPO. He is working for us, which is fantastic, and I could go through others. Each one of them has top-end, substantial experience. Frankly, we are privileged that they want to work with us.

Q173 Mr Bacon: Surely part of your trick is to create an environment in which people like that find it attractive to come and do public service.

Bill Crothers: Ask Ian why he is here—it is not for the money. Why are you here, Ian?

Q174 Mr Bacon: Mr Kelly, when are you leaving?

Stephen Kelly: I am leaving on 5 November to go back to being a FTSE CEO.

Q175 Chair: On behalf of the Committee, I want to say that we think you have done great work, Stephen. We are really sad. It is not good for the civil service and Government that you are leaving. I am going to give you the opportunity to shake off the constraints a little. According to an article in *The Guardian*, which you no doubt saw, you said that you

were leaving in part because of frustration with the pace of change in the civil service. Go on—last reflections.

Stephen Kelly: You know, it's amazing what gets printed in newspapers that shows no reality. I have enjoyed being here enormously. I will be positive first of all. There has been some seismic movement in terms of the relationship at the centre. Our relationship with the Treasury is fundamental. Joined up, we become hugely influential in terms of what you care about: taxpayer outcomes and better citizens services. Sharon, Lindsey, John Kingman—all these guys are fantastic. That has been good. In terms of building the capability of the people around us—it is not just us; there is a cadre—the magic works when Ian is working with three or four high-quality apprentices, who learn from him to build the capability of the civil service and improve the whole DNA.

On the counter side, has it been frustrating? Have I banged my head against the wall sometimes? Have I said, “Where is the taxpayer in this conversation?” Absolutely. Many times. But the momentum of what we have achieved, balanced against the mountain that must still be climbed, gives me a sense of optimism, because we are at a tipping point of the civil service really being up for this. In the first year or so of my being here, there were crazy conversations and the resistance to common sense was palpable. Things have moved on dramatically. The conversations across Whitehall, the engagement with the insightful permanent secretaries who really get it, the great DGs who are out there—there is some great talent in the civil service. The one thing I will be sad to leave is the people, because they are fantastic.

The thing we could do more of—I hope that the change around the chief executive role provides the clarity—is that everything starts and finishes with leadership. Where you have ambiguity, you die. Where there is not clear accountability, you die. Where you have ambiguity and leave it to smart people to navigate, they forget the outcomes that we are here for: better citizens services costing less money and saving money for the taxpayer, and building pride in the civil service.

I do think that the appointment of the chief executive of the civil service is a tipping point. It is great to have Jeremy Heywood, who has been fantastically supportive on this agenda, to really take things to the next level. I would say that we are probably a third of the way through the journey. I talk about the foothills; perhaps we are just at base camp now, but there is a hell of a long way to go, and it is all going to be about capability, which then underpins confidence, which is a trigger point to change the culture to say what great looks like—great ethics, great culture, great accountability, great leadership. The opportunity is there.

On a personal level I will be sad to leave because the people are fantastic, but there is a cadre of great people who have come in from the private sector and some fantastic civil servants who can take this forward.

Chair: Well, loyal to the end. A big thank you from us, and a sadness that you are going.

