

Public Accounts Committee

Oral evidence: Lessons learned: competition in public procurement, HC 1760

Monday 23 October 2023

Ordered by the House of Commons to be published on 23 October 2023.

Watch the meeting

Members present: Dame Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Mr Jonathan Djanogly; Mrs Flick Drummond; Mr Mark Francois; Peter Grant; Ben Lake.

Gareth Davies, Comptroller and Auditor General, David Fairbrother, Treasury Officer of Accounts, and Matthew Rees, NAO, were in attendance.

Questions 1 – 92

Witnesses

I: Sir Alex Chisholm, Permanent Secretary, Cabinet Office; Simon Tse, Chief Executive, Crown Commercial Service, Cabinet Office; Gareth Rhys Williams, Government Chief Commercial Officer and Non-Executive Director, CCS, Cabinet Office.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Report by the Comptroller and Auditor General

Lessons learned: competition in public procurement (HC 1664)

Examination of witnesses

Witnesses: Sir Alex Chisholm, Simon Tse and Gareth Rhys Williams.

Chair: Welcome to the Public Accounts Committee on Monday 23 October 2023. We are here today to look at competition in public procurement, and how Government have learned lessons from a transformation programme in procurement that has been going on at least since I have been a member of the Committee, which is for 12 years, to improve how procurement works in Government. Bearing in mind that Government spent £259 billion in 2021-22 on procurement, any small percentage of saving could lead to big sums being available to spend on other things. It is a significant area of Government spending, and we want a good conversation with Government today about what is going well, what might need to be improved, and what the general direction of travel is. Many thanks to the National Audit Office for their excellent work on this, which we are basing our hearing on.

I would like to welcome our witnesses. We have Sir Alex Chisholm, the permanent secretary at the Cabinet Office. We have Gareth Rhys Williams, Government chief commercial officer and non-executive director of the Crown Commercial Service at the Cabinet Office, who is really the architect of a lot of this work. We have Simon Tse, chief executive of the Crown Commercial Service at the Cabinet Office. A warm welcome to you all. To kick us off before we go into the main session, I am going to ask Sir Geoffrey Clifton-Brown to ask a question of Sir Alex.

Q1 Sir Geoffrey Clifton-Brown: Good afternoon, everybody. Good afternoon, Sir Alex. You may remember that when you were in the room with us in May on transforming digital, I asked you a question, since when we have had a plethora of others, on appointment letters for second permanent secretaries, and making digital, as well as various financial matters, one of their responsibilities. At that time, you said, "This is an interesting possibility, although others might have a view on it." Have you made any progress on that?

Sir Alex Chisholm: Thank you very much for your question, as ever. First of all, there has been great progress in digital transformation since May. We have kept up with the rate on which the NAO and PAC commented favourably when we were last before you.

The job description for second permanent secretary varies between Departments. In some cases, the focus is on delivery of major programmes, and in others, there is more of a vertical division, as has happened in the Treasury over a number of years, so I do not think that there is a single model, but what you are right to say is that digital



HOUSE OF COMMONS

transformation needs to be led from the most senior levels. That is one of the reasons why we created the Digital and Data Board, which is a sub-board of the Civil Service Board: to make sure that not only technical professionals but also permanent secretaries are leading our efforts on digital transformation.

On the people who come to come to that board, it is chaired by Jim Harra, permanent secretary at HMRC. He is joined by Matthew Rycroft from the Home Office, Peter Schofield from DWP, etc. You will take my point that we are trying to make sure that the top of the shop is fully versed in how digital transformation offers huge potential for overall productivity and improving the public service.

Q2 Sir Geoffrey Clifton-Brown: Thank you for that answer. Digital seems to be so critical to so much of what Government do. That will be true in this hearing, too; I am sure that we will return to that subject.

Can I start today's session, as the Chair has introduced it, on lessons learned and competition in public procurement? On paragraph 4, the Government made the theoretical calculation, in relation to the Procurement Bill, that savings of between £4 billion and £7.7 billion a year could be achieved through increased competition. What is your view on that? That is a great deal of money.

Sir Alex Chisholm: Was that addressed to me?

Sir Geoffrey Clifton-Brown: That is to whoever. It can be all of you, if you like, but let us start with you, Sir Alex, please. It is paragraph 4 on page 7.

Sir Alex Chisholm: That is, as you say, an illustrative economic scenario about the benefits to the economy. There is also a smaller figure, which is the estimate of the realisable monetary savings a year. That is in the order of producing a net present value of about £200 million. The overall benefits are large for the reason already referred to by the Chair, which is that the base level of activity is very substantial, at £300 billion a year. Against that, you can see that those figures seem much more understandable and not to be an overclaim.

Those benefits come partly from improvements in competition and innovation, which is a big part of the subject today, as well as a lowering of transaction costs through a simpler system, and a higher level of participation through improved transparency. Those are the sources of economic gains, but maybe my colleague, Gareth Rhys Williams, who sponsored this Bill when it came through Parliament, would like to add further.

Gareth Rhys Williams: As you will doubtless explore with us later, our data in the wider public sector is less good than it is in central Government. If you look at central Government savings over the last three to five years, since we have been tracking it properly, we have generally been saving 4% to 6% of spend at the same time as getting



better delivery. If you take that 4% to 6% spend on the £70 billion that we are spending in central Government and extrapolate that for the wider public sector, you get to these sorts of numbers, plus the efficiency savings that Alex was talking about.

There are a couple of caveats to that, though. On the upside, possibly, the rest of the public sector is smaller purchasing organisations, who are likely to benefit more from the sorts of tools that Simon and his team put in place for common goods and services. On the other hand, lots of the wider public sector—and councils particularly—have been under severe financial pressure for a long time and will have started eating into those. We initially offered a range, and that has been narrowed down to the single number that you have.

Q3 Sir Geoffrey Clifton-Brown: We have an awful lot of Departments coming before this Committee with varying degrees of success. It seems to me that one of the ways that you could achieve that figure is by getting the performance of the worst-performing Department up towards the best. What are you doing about that?

Gareth Rhys Williams: When we look across central Government, where we have the detailed numbers, best and worst on savings is not that simple. If you look at the Departments that spend a lot on IT—DWP and HMRC—they are achieving double-digit savings percentages. On the other hand, when you look at Departments that are spending more on facilities management, for example—essentially, cleaning and catering services—their savings rates are much lower, at 2%, 3% or 4%. You could look at that and say that that is bad, or you could look at that and say that that is appropriate.

We are trying to drive two things across the commercial function. One is about whether we have the right people, which we can talk about later, if that is helpful. We are also talking about how we monitor capability through our standards, and then benchmarking and masterclasses. We have a very active masterclass programme, which is exactly where we get the best across the public sector to come and talk to colleagues about the things that they are doing well. We have had something like 35,000 people sign up for different masterclasses; that is 8,000 people. We used to run four or five of those a year before Covid. 50 people would turn up in Whitehall. We have now learned how to work online and get about 500 people turning up every week for masterclasses that are driving up our adherence to standards.

Sir Alex Chisholm: I wonder whether it would be helpful to talk about the work of the commercial continuous improvement assessment centre, which helps to bring up the laggards up to the standard.

Gareth Rhys Williams: The masterclasses come off the standards. On the capability side, we have our assessment centre, which is driving up standards of training. I could talk to the training numbers, if that would be helpful.



HOUSE OF COMMONS

Q4 **Sir Geoffrey Clifton-Brown:** One of the ways you will see, positively, whether these masterclasses work is through having professional standards, so that we know which people are in which cohort of professionalism.

Gareth Rhys Williams: Indeed we do. We were one of the first functions to do that. We assessed those in the day-long assessment centre that I touched on, and that is for grades G7, G6, SCS1, SCS2 and SCS3.

Q5 **Chair:** For those of us who do not speak that language, could you explain those?

Gareth Rhys Williams: The permanent secretary is SCS4. Simon and I are SCS3, so are directors-general. There are then two SCS grades, and then the two next grades. We have put through that assessment centre about 7,000 people whom we have been trying to recruit. Of the 1,500 or so people who are in the GCO, which is the senior group of G7 and above, and who are employed centrally and then deployed out to Departments, 86% are fully accredited at A. The rest are on a B-to-A course, which is a full-year course, and they are retested at the end of it. I do not know how much more detail you would like.

Sir Geoffrey Clifton-Brown: That will probably do us for the time being, because we have a great deal to get through.

Q6 **Chair:** Can I just ask about the recruitment freeze in Whitehall? How is this affecting recruitment to this area of work?

Sir Alex Chisholm: There is not a recruitment freeze in Whitehall.

Q7 **Chair:** There is not. That is funny, because the Chancellor seemed to announce it the other week. Tell us then, Sir Alex, what is happening.

Sir Alex Chisholm: The statement made by the Chancellor a couple weeks ago was about a recruitment cap. What he set out was that the number of civil servants should not continue to grow, and that at the end of the spending round, the number should be lower than today, or than at the end of September. You will understand immediately that is not the same as a freeze, because we have a high level of turnover; around 50,000 to 55,000 people leave the civil service in any particular year, through retirement or other reasons.

Q8 **Chair:** Is there any impact on this profession?

Sir Alex Chisholm: There is none yet. It does depend on how the recruitment cap is implemented, but you would expect Gareth and me to make the case for commercial experts being people who are worth their weight.

Chair: If you keep working on the data, Mr Rhys Williams, and proving that you can make savings of 4% to 6% of spend, you will make your own argument.



Gareth Rhys Williams: I will bear that in mind.

Q9 Sir Geoffrey Clifton-Brown: Could I perhaps move us on to the types of contract? I will bring you in, Mr Tse, if I can. The table in figure 5 shows starkly the trend of moving from a competitive contract to a framework contract. In relation to number and value, open or competitive procedures are decreasing from 25 to 15%; and in terms of value, frameworks are increasing from 18% to 68%. I wonder whether this is a trend in the right direction, because functional contracts are just that. They are only for those that are on the standard functional framework and, therefore, they necessarily exclude others, including small businesses. Is this trend in public procurement in the right direction?

Simon Tse: That is a good question. As the largest framework authority in the UK public sector, you would expect me to say that frameworks are the right thing and the right vehicle—and I genuinely believe they are. CCS has 86 frameworks. Chair, you mentioned £260 billion of spend in Government every year. Of that, £120 billion is what I call our marketplace. I do not buy pharmaceuticals. I do not put commercial agreements in for pharmaceuticals or military equipment, but for common goods and services, I do all of them.

Frameworks are just one vehicle that we use. It is certainly the largest, in terms of the volume of commercial agreements that we have; we have 86 of them. I also have dynamic purchasing systems, which are more flexible and are open, inasmuch as you can bring new suppliers in at any point, whereas a framework is closed for a period of time.

Why do I believe that frameworks do the right thing in terms of competition? Effectively, if one uses them correctly, the first procurement exercise competition is one where we would go to a marketplace and invite people to tender to be on that framework. They have to pass a number of gates—financial standings, quality of the product, etc.—but they also put a price in to enable them to come on to that framework. Price is not the only measure, but is one of the measures. We are getting competition because people have to bid to be on a framework. Once they are on the framework, our customers then run mini-procurements off those frameworks. They treat them as a pre-qualified group of suppliers that we have to select, first of all; that is competition. Subsequently, our customers will run mini-competitions with those providers to get even more competitiveness.

Q10 Sir Geoffrey Clifton-Brown: I can see the ease for procurers and for individual Departments of that system, but given the dynamism of certain sectors of the economy, particularly services, IT, AI and so on, some smaller firms come up very quickly and might miss out on this framework system.

Simon Tse: That is why, in some cases, we have dynamic purchasing systems, which are open agreements that enable us to add a supplier at any time. It is not as if they are closed for one, two, three or four years.



HOUSE OF COMMONS

We have vehicles in play that enable that to happen. Some of our other commercial agreements on frameworks, such as G-Cloud, are annual awards that we do. Effectively, that has a low bar to entry and such ease of access, particularly for SMEs. It is one of our most favoured frameworks, if I can call it that, with just over £2 billion of expenditure coming through G-Cloud on an annual basis. There are large organisations on it, but it is predominantly SMEs. Although I said £2 billion in spend earlier on, a large volume of that is contracts for less than £5 million.

Q11 Sir Geoffrey Clifton-Brown: I came across a framework the other day, where the minimum turnover was £40 million. They were not getting enough bidders, so they had to reduce it to £30 million. I am concerned that, with these frameworks, some of the barriers to getting on the framework could be debarring some of the SMEs that we are talking about.

Simon Tse: We try to make certain that SMEs are an absolute market for us, because we recognise the innovation that an SME could bring, although that is not to say that large organisations could not. CCS now has just over 11,000 suppliers. Of those, 4,500 are new suppliers to Government over the last five years. Of the 11,000, 8,300 are SMEs. It is not as if I am distorting the market towards large organisations. We spend a large proportion of our time engaging with suppliers. I have about 350 staff whose sole job is to understand markets and suppliers, what products and services are out there, and what the right type of commercial agreement is for us to put in place that does the very thing that you have mentioned and allows them access to the markets.

Gareth Rhys Williams: To build on that, frameworks are growing. There is a distinction, as Simon said, between good and bad frameworks. There are too many frameworks. On one count, there are 8,000 construction frameworks. A lot of those are single-supplier frameworks. A couple of years ago, we commissioned a piece of work by the King's Fund that helped define what a good framework looks like, and it has the characteristics that Simon just touched on.

In the new Procurement Bill, which, hopefully, will pass its final stage in the House of Lords the day after tomorrow, we are widening, as Simon said, dynamic purchasing agreements, so that they can have open frameworks that you can open on periodic dates to let more people in. Even if it is a four or five-year framework, you can let people in annually or six-monthly, depending on how you set it up. There are also the dynamic markets that Simon talked about, where you can jump in or out at any time.

While the data is what the data is, the parallel data on SME spend shows that SME spend has gone up from £11 billion in 2016-17 to £21 billion last year, so I do not think that the two things are in conflict at all.

Q12 Sir Geoffrey Clifton-Brown: I have two very quick questions. First, it



HOUSE OF COMMONS

seems to be the natural thing to do to exclude poor performers from a subsequent procurement. It might be a services or facilities provider. I had better not name any of them, otherwise I will get myself into trouble. They may have poorly performed in one division, but another division might be totally different. If you exclude particularly larger facilities management firms, you might be reducing competition, might you not?

Gareth Rhys Williams: Yes, you are absolutely right, Sir Geoffrey. Exclusion is a very heavy hammer, and we need to make sure that that is justly and properly administered. The current routes to exclusion are with what is called an A and a B card; a supplier has to demonstrate, while they are bidding, that they can find three customers who have bought a similar service and have found their performance acceptable. That is not sufficiently strong, because, if a customer says, "No, you did not", I would suspect that the vendor would go off and find someone else until they had the three cards, so that achieves nothing.

The new Bill will tighten up exclusionary requirements. It is still data-driven, and we are setting up a group who will focus just on judging exclusions. That will be externally staffed by lawyers and other professional procurement people, so we are taking it outside of the purely official zone. We very rarely exclude people, but the threat of exclusion is very useful.

On managing poor performance, you will have seen, or probably discussed the fact that, for three or four years now, we have been requiring the publication of the three most important KPIs for large contracts. We started with what we call our gold contracts and are now halfway through our silver contracts, and the publication of those is a really good spotlight anyway. We can use that data to say, "How is supplier A" or "supplier B tracking and trending over time, within a region or across an individual contract?" That allows us to ask the more intelligent question during the bidding phase, which is, "What have you done to fix the problem that you demonstrated in this area?". That also mutes the worry that you are rightly pointing to.

Q13 Sir Geoffrey Clifton-Brown: The final question from me is my old chestnut: it is about scope, particularly for the bigger contracts. A permanent secretary, an SRO or a divisional manager comes up with an idea for a contract to do something probably fairly new and innovative, but it is not scoped properly. There are numerous examples towards the back of the report where things have not been scoped properly.

Mr Tse, what checks and balances are there in the system, particularly for the larger contracts, and what checks do you carry out? Let us take the emergency services network or tagging. When they let those contracts, the technology simply was not there to do what they expected should be done in the contracts, so what checks and balances are there to say, "Hang on a minute. You have a piece of paper signed, but it is not feasible"?



HOUSE OF COMMONS

Simon Tse: It would be more appropriate for Gareth Rhys Williams to answer that one, because while I put the frameworks in place, I do not put the contracts in place.

Gareth Rhys Williams: If things go wrong now, that is where they go wrong, so you are absolutely right to put your finger on it. While we accept all of the recommendations in the NAO paper, recommendation (d) on early market engagement got lots of ticks everywhere. We need to make sure that public authorities spend enough time understanding the market up front—what the market can deliver and what best practice is in the market—rather than perhaps retreating to a tower somewhere and coming up with what we would ideally like, which may not be deliverable. That then runs us into cost overruns and spec changes, which leads to delays. You have had plenty of examples of those in front of your Committee, and you will doubtless question us on them, but there is a common strand to a lot of those: we have not understood what the market is capable of delivering, and we have made the spec overly bespoke. We repent at leisure on those. If you felt like emphasising recommendation (d) in your report, that would be great.

Chair: We will try.

Q14 **Sir Geoffrey Clifton-Brown:** The back of the question is about what checks and balances there are. Who is there who has enough knowledge of the market, but says to the permanent secretary, or whoever is making the proposal, “You are being a bit over-optimistic here”?

Gareth Rhys Williams: We have an assurance process where large contracts come to a panel made up of Alex, me and the relevant Minister in the Cabinet Office. We do not look at all of them; we look at 400 out of 10,000 contracts a year—the risky, nasty ones that you are talking about. The key moment of intervention is what is called the SOBC, or the strategic outline business case. We can ask the question, “Have you really understood this? There is nothing wrong with leading edge, but is this bleeding edge?”. That is the time when we can ask those sorts of questions and try to tease that out before the specification has been finalised, and we have gone past too many forks in the road that narrow down what is possible. That is the principal check.

Q15 **Sir Geoffrey Clifton-Brown:** As an acid test of what you have just been saying—and bearing in mind that these examples were from a few years ago—would the tagging and the emergency services network be picked up today as being unrealistic?

Gareth Rhys Williams: That is a perfect, unprovable counterfactual, Sir Geoffrey, so obviously yes.

Sir Geoffrey Clifton-Brown: Let us leave it there, then.

Gareth Rhys Williams: It is true that there are a number of residual tech contracts that are lurking. ESMCP is one of them. Touch wood, there have not been any in gestation recently. That does not prove that we are



HOUSE OF COMMONS

on the right track, but it is, hopefully, a good indication. Tagging was also complicated, as you will recall, by the issues that we had with Serco and G4S at the time.

Q16 Sir Geoffrey Clifton-Brown: It had 900 improvements in it. It was clearly unrealistic.

Gareth Rhys Williams: There was an understandable interest in fragmenting the market there, which I do not think worked. That contract is just coming up for reletting, and we have gone to a market solution that appears to be going much better, touch wood.

Q17 Chair: Picking up on answers that you gave to Sir Geoffrey, Mr Rhys Williams, you talk about getting to know the market better. When we examined Covid schemes, a number of Departments acknowledged that they did not know their sector as well as they thought. Have any useful lessons been learned as a result of Covid? What is your experience when it comes to Departments' knowledge of their sector before and now?

Gareth Rhys Williams: We are busy pulling together our module 5 response, Chair. A number of the areas where we ran into problems were where we had assumed that the product would always be available, PPE being the classic, and where we were buying from distributors and had chosen not to invest the money required to have, for example, quality people in China. These products had been turning up every day perfectly assured for years, so those costs had been taken out of the system.

I cannot prejudge the inquiry, but in retrospect, it would have been better if we had spent the insurance premium-type money every year to keep understanding those markets better, because we had underestimated the downside and instead had taken the saving. We often see that in procurement, I am afraid. The genesis of this, as you said, was 10 or 12 years in which we underinvested in the commercial function as a whole across Government. We did not have enough staff of sufficient calibre, and we had a run of disasters. We have had no recent disasters in the normal running of the business recently, so you might say that we clearly do not need to spend as much on the procurement resource, which is a trap to avoid.

Q18 Chair: You can see a seesaw. We will touch more on data in a moment, but are you collecting data on relative numbers of successes and failures? How are you measuring them, if the measures that you are putting in place mean fewer failures? You keep touching wood; we hope that you have a bit more than that.

Gareth Rhys Williams: I track the number of extensions, which is heading in the right way. I track the number of challenges, which is heading in the right way. We track our KPI performance, in terms of whether these contracts are delivering, and that is heading the right way. I look at the cost that we are taking out; that is going in the right way. I also look at the number of our vendors that collapse, because that is also not in our interest, and that is heading in the right way. We, frankly,



HOUSE OF COMMONS

have not been through a whole economic cycle, so that is possibly slightly optimistic.

Q19 Chair: Covid and the economic situation could have had an impact; we get that. That is helpful to know. I wanted to go back to this issue of smaller businesses. Mr Tse, you talked G-Cloud, which I have seen from gestation to now, so it is good that it is improving, and it certainly is resonating with some of the businesses that I have had contact with.

You say that most of the contracts are less than £5 million, but going back to Sir Geoffrey's point, £5 million is still a lot of money for a small or medium-sized enterprise. One put it to me that a £100,000 contract for a business at the stage of growth would be a huge deal for them and help them grow. That is good for the economy and for competition in Government contracts. How low down do you want to go with G-Cloud, or am I just misreading that £5 million is a top figure and you have much smaller contracts?

Simon Tse: Not at all; 99% of the business done through G-Cloud is below £5 million, but it is not the only vehicle. Am I interested only in the large contracts? No, I am not. G-Cloud can be used for anything, because it is a framework. I also have other commercial agreements in place. For example, as we saw during the pandemic, we put in place a low-value procurement platform for any contract for any goods and services below £140,000, which is the point at which it needs to be published.

Any provider of any type of service that is common goods—so not military equipment and not pharmaceuticals—can register on that platform and provide their goods and services to Government. It then requires the buyer to want to engage with those suppliers and take their offerings on board.

I have tried to make certain that we have different routes for different types of organisations, including somebody who wants to do window cleaning of a local office, or provide catering services to a local office in Government, rather than providing a national contract.

Gareth Rhys Williams: To build on what Simon said, bear in mind that he is putting in frameworks that are designed to have multiple deals. For an individual procurement, Ministers agreed to change the rules 18 months ago, so that sub-threshold procurement—for amounts less than £140,000, roughly speaking—can be directly awarded locally with little hindrance. The exact example that you are talking about does not need to go through any process at all involving us.

Q20 Chair: When do you have to aggregate those? Let us say that, for example, job centres in all our constituencies decided to let the window cleaning contract, but that is all with DWP. When does it get too big to be parcelled out to smaller businesses?

Gareth Rhys Williams: That is a really good question. What is the net best? As a thought experiment, do we let the manager of each job



HOUSE OF COMMONS

centre, of which I forget how many there are—700-and-something, I think—let their own window cleaning contract, or do we aggregate it regionally? They would probably get a better price and a more consistent service. We would rarely want to run that nationally, because then you lose exactly the opportunity that you are talking about.

Depending on what the service is, such as window cleaning or canteens, you will get a different answer, which comes back to Sir Geoffrey's question about market engagement. What gets the best economic result, not necessarily the best price? I do not want to opine on that, but those are the sorts of considerations.

Q21 Chair: We are talking about competition today. We were discussing before how tempted we are to get into the wider issues, but I will pull back a bit on that for a moment. I just wanted to go into the issue of competition procedures. When they have been used, 20% of contracts—one in five—have attracted only one bid. That could suggest that markets are too thin to really have good competition. Mr Rhys Williams, why is that?

Gareth Rhys Williams: It is referenced throughout the report. I would say not that our data in this area is not perfect; I would say it is not good. If the new Bill goes through, we will be putting in place a much better transparency platform that collects bidder information at multiple stages. At the moment, that data is not good.

Let us say that we started a big bid with three bidders. One falls out and two go forward into negotiation—there is an example that NAO colleagues will be able to reference for you. One of the two final bidders turns out to be non-compliant. That would score one bidder, but it is not true; we started with three.

You are right to press on this. It is a fallacy to think that having too many bidders is good. It means that we do not run the process easily. One bidder is not ideal, but is not a disaster. We had one bidder for a whole lot of military contracts and were able to engage the single-source regulations on that, and so compare pricing to the global market, even though, for defence reasons, we might feel that we need a UK supplier, for example. They are not subject to formal competition in the sense of the procurement rules, but that bidder is subject to competition, competitive price tension and margin tension compared to global metrics. It is not the same, but we have found mechanisms to try to ensure that we still get value for money, or a good chance for value for money, even when we are deliberately putting ourselves in a monopoly position.

Q22 Chair: There are areas that are getting thin in terms of competition. There is the work that Mr Tse is doing with frameworks and the G-Cloud to bring them in; however, a lot of small businesses want to compete but still find it a bit off-putting. I have a lot of tech businesses in Shoreditch that are keen to grow, and sometimes the Government contract bit is just too much of a hassle at that period of growth, though the contracts are



HOUSE OF COMMONS

worth nurturing for future bids, if they can get through these various processes. What is your mechanism for looking at a sector and saying, "We have had a few thin competitions here", where perhaps the suppliers that come through are not as good as you would like them to be? Do you have a role there, or is that Government overreach? What are you doing about that?

Simon Tse: If I think about the SME market in particular from a Crown commercial perspective, we have launched an SME action plan, which is due to be updated next year. We also engage thoroughly with SMEs right across the sectors. We share the challenges with them. We talk about the success factors. We have shared knowledge. We give guidance to them. We give them useful contacts and we host events for SMEs, recognising that I have 83 frameworks and about 24 dynamic purchasing systems.

Going back to the number that I gave earlier, I have about 350 staff in an organisation of about 850, and it is the job of those 350 to make certain that they are engaging with markets. They need to understand who the players are in the markets today, and who the new entrants are. I use the language internally that they are there to create markets, disrupt markets and maintain markets. That is the profession that we have. We employ people from sectors with sector knowledge, and they use their expertise. They are employed by me and by Gareth, and we use that experience to make certain that we understand what is going on in markets.

Q23 **Chair:** How are you making sure that there really is competition, and that you do not have a buyer just picking a favourite supplier off a framework? In human terms, that could be tempting, if you have worked with an organisation before and you know that they can deliver.

Simon Tse: I can put all the guidance out that I can in terms of our customer base, to make certain that they run the procurements and use the frameworks. Ultimately, they will make the assessment around risk and so on, and on which suppliers they want to run with and which process they want to use, but I will try to educate our supplier base around the various options that they have.

Sir Alex Chisholm: To expand on the answer, the problem with thin markets is that there are things that we can do in the overall design of the system to try to improve that. As Sir Geoffrey was saying, when you get a case where the scope has been drawn so widely that it is a huge project that is then off-putting to a small supplier, that is where we have artificially constrained the market. That can also be the case sometimes where the Government keep changing their mind or extend the timeframes—that can be off-putting to bidders—or where the pipeline was not really visible, and it is suddenly, "Bid by November", which is difficult for smaller players to do.

Those are the ills that we are trying to address, both through the guidance and the functional standard, but also through the new



HOUSE OF COMMONS

legislation that encourages the better type of behaviours, if you like. That is the general approach in terms of lifting all boats.

In particular sectors, we also see what we can do. The Cabinet Office controls the process that Gareth described a few minutes ago. Those are one of the things that we look for. On facilities management, in the past, we said, "We want as much competition as possible, but if you set national contracts, you are going to take out people who have only a strong regional presence, so why do we not create regional markets within that and break the national contracts into regional ones?" That, indeed, brought more people into the market.

Other times, particularly in Defence and things like that, you might say, "I know who would be bidding for that". In some cases, Defence like someone who has a lot of the relevant assets at the moment, or perhaps some pre-existing business. "How can we actively go out into the international market or look into the smaller providers to provide a realistic challenge against the incumbent or the obvious bidder for that?" There is a mix of things that are general improvements to the thin market problem; and as you would expect, we focus on sectors where we see an excessive concentration.

Gareth Rhys Williams: To build on what Alex was saying about the assurance process, I collect information on direct awards. To your concern about the favourite vendor, I do not believe that to be a problem. I get charts across Departments about who has let what through direct awards and whether those look reasonable. We scratch away at those quite hard, and those are the cases that end up in front of me, Alex and Minister Burghart to investigate.

It is fair to say, though, that we have a gap in our data about direct awards from frameworks, which will be plugged by the transparency regulations in the new Bill, if that sees its way through the House of Lords the day after tomorrow. That will allow us to see where those are and to close them down. I do not think that it is a huge open door, but it is a door that is logically open at the moment. I did not see any evidence of the favouritism that you talk about.

Simon Tse: Chair, you asked about SMEs; there is another thing that I would add. This is not just about SMEs dealing directly with the Crown Commercial Service and joining frameworks, DPSs or the low-value procurement platforms. When we appoint suppliers, one of the things that we look at is what the supply chain looks like to them. Take one of our commercial agreements in public sector resourcing; a single supplier has that contract, but a host of SMEs sit behind that single supplier, so there are different routes for SMEs to get Government business.

Q24 **Chair:** We could get into that whole issue, which we will touch a bit more on later. The NAO makes clear recommendations about how to improve framework agreements. Do you accept those recommendations, Mr Tse?



Simon Tse: Yes, we do.

Q25 **Chair:** That is very helpful to know. We have looked at contracts over a number of years, and sometimes the Government will take on a liability or contingent liability in order to reduce the cost of the contract. Typically, the NHS can be quite good at that, because the reliability will be there anyway if they are providing a service, so they can negotiate down the price of a contract. What freedom do you have to do that, and what are the risks involved? Perhaps I will start with Sir Alex.

Sir Alex Chisholm: The sourcing playbooks that we have really try to address this issue. They look at where the risk best sits. It is not always smart for the Government to say that the risk sits outside of Government, because it could be that we have a better view of that or are able to manage it better, or it could be that, if the supplier fails, we will deal with the consequences of failure, which may be greater. It is about trying to work out what risk you want to be taken off your books, and whether that can be held by the private sector most efficiently versus the risk that naturally falls to Government, and we have got better at that. There is no golden rule that applies in every sector and every situation, but a good analytical approach is set out in the sourcing playbook, so that would be the beginnings of a good approach.

Gareth Rhys Williams: We have made huge progress on this. To Alex's point, it is not a good idea for us to push all the risk. Particularly pernicious was the habit in previous years of having unlimited liability contracts. No sane vendor would take those on.

Chair: No, not without a major premium

Gareth Rhys Williams: Yes, quite. In the event that they fail, we have been paying the premium in the meanwhile. In the event that they have not failed, we have ended up with a contract with a supplier who has not understood the maw that they are putting themselves into, which is not usually going to end well. In the assurance process, we check that there are sensible liability limits; that is buried in all the playbooks that Alex referenced.

Q26 **Sir Geoffrey Clifton-Brown:** What are you doing about working in known areas where risk is uncertain—about the unknown unknowns, for example in the nuclear field—so that Government do not always take the risk of decommissioning, and know what the likely risks are from better data?

Gareth Rhys Williams: That is a complicated one. We are going through a number of procurement exercises on small modular reactors, in which we are trying to assess the technical deliverability of different systems. In the past, that has ended up with, essentially, contracts for difference. This is outside my area, but to try to give an answer, DESNZ, in its previous manifestations, has set minimum prices as a way of making sure that there is enough money in the system for that decommissioning.



Sir Alex Chisholm: Here, I am channelling my more recent experience. The NDA has a lot of long-term contracts in decommissioning. Sometimes, at the end of that, when it is moving to a new competitor, you need to manage that transition very carefully. You have good incentives for people at the end of their contract, so that they do not just run it down, so to speak.

Also, the new competitor will probably have bid against a set of assumptions that then need to be very clearly baselined. If the baseline does not exist, you end up paying a lot more than you expected, because they are able to say, "Contrary to what I bid, this is what the actual situation is", so they have learned some valuable lessons there.

As you said, the underlying amounts of money are huge. In some cases, you cannot easily get to the bottom of the situation, because of the risks involved in that discovery, to put it mildly. In most cases, you can, and it is worth investing the effort up front to do that baselining before you do the re-contracting.

Q27 **Sir Geoffrey Clifton-Brown:** One potentially huge contingent liability that the Government took on was in relation to Covid vaccines. What are you doing to make sure that, not even in a future pandemic, it would not be necessary to take the risk away entirely from the vaccine manufacturers and take it all on the public purse?

Sir Alex Chisholm: Are you referring there to the risk that a vaccine could, at some later date, cause harm to the person taking it?

Sir Geoffrey Clifton-Brown: That is correct.

Sir Alex Chisholm: This is not my specialist area, but I think that the situation is—I will write afterwards if I have made a mistake—that, at the time at which the initial, most promising vaccines were being developed, none of the vaccine providers was prepared to license it for use by the Government unless there was such an assurance given, because we were trying to do things at incredible pace. The normal process of testing would go through multiple levels, which would take several months or even years.

Given that the backdrop was a high proportion of mortality as a consequence, the Government said, "We accept that it is for the state to take that risk, and that no company should do so. If we insist on the company doing so, we will have no vaccines, which would not be a good outcome." That is essentially why that was.

Even knowing that, I do not think that there is something to protect us in future from that same situation arising. There is a level of risk that it is better for the state to hold than the individual private company, especially as our lead provider was at the time acting on a cost basis, essentially, rather than a profit maximisation basis.

Q28 **Peter Grant:** Mr Tse, you were responding to the Chair on the number of



contracts going to small and medium-sized enterprises, and you made the valid point that sometimes the headline award is to a big firm, but that then gets subcontracted out to smaller firms. Do you keep reliable data so that we are able to say, "Out of a £50 million contract awarded to a big firm, this is how much has gone to small businesses"?

Simon Tse: No, I do not. The only data I hold is on how much spend has gone through the main framework authority. In the SME world, if I take last year's numbers, I can tell you that, of the £31 billion of spend through our commercial agreements, about 14%, £4.2 billion, went to SMEs but was on our commercial agreements. What I cannot tell you is what that supply chain looks like further down. I do not think the transparency piece, Gareth, gets to that level of detail.

Gareth Rhys Williams: No, I do not think that it would help answer Mr Grant's question.

Q29 **Peter Grant:** This one may be better for you, Mr Rhys Williams, although, Mr Tse, feel free to answer it. The NAO briefing that we have received lists the percentage of contract spend by Department that goes to SMEs. It is typically around 30% to 35%. For the Department of Health and Social Care, it is down to 17%. The Scottish Government's figures overall are 78% of contracts and 84% of contract value. What work have you done to understand why there is such a huge difference?

Gareth Rhys Williams: That is a great question. Nick Ford, who is the Scottish Government procurement director, used to be the procurement director in DFID and used to work for me, so we are tied up quite tight. It is fair to say that the Scottish Government have done some clever things there, some of which are built into our new build.

There are two sides. First, how do we make life easier for the SME to be successful? We have touched on some of them. The single database—"tell us once"—will be a big step forwards in that respect. The other thing is two entities that are buying different things. Aircraft carriers are—

Q30 **Peter Grant:** I quoted four UK Departments that predominantly carry out devolved functions in Scotland: health, social care, education and justice. The Scottish health service and the UK health service do not build aircraft carriers.

Gareth Rhys Williams: No, but I think that drugs are bought centrally. They come through DH, so a big chunk is not spent in a hospital trust. I am happy to compare those with the central procurement of larger items, which tend not to be with SMEs, but I will happily take that away, talk to Nick and come back to you, in case I have missed anything.

Q31 **Peter Grant:** My point in asking was to try to find out whether you had identified that, first of all, to understand the reasons. I know that some of the possible explanations that you have given are probably valid. I am trying find out whether you have established, as a matter of fact, how much of the difference is just because you are doing different things, and



HOUSE OF COMMONS

how much of it is because there is a difference in the performance of one nation as against the other.

Gareth Rhys Williams: In previous discussions, it has come down to the fact that we are buying different things, but as you have asked the question and I cannot give you the stats off the top of my head, let me take that away and come back to you.

Q32 **Ben Lake:** Mr Rhys Williams, how frequent is it for a contractor to win a national contract, but then subcontract certain elements of it to more regional providers due to a lack of resources or whatever in those areas?

Gareth Rhys Williams: I cannot give you the statistics. When a single provider does that, they have to declare what their supply chain is. We can look at that and say, "Are we comfortable with the people who they are planning to subcontract to? Does that make sense?".

Take the example that Alex gave a while ago of a national facilities management contract for cleaning, catering or maintenance. It would be a mistake on our part to say, "You have to deliver this all yourself", because then we are restricting ourselves to a very small group of suppliers who self-deliver. We might say, for convenience and comparability of performance data, "We want a single point of contact, but we are happy for you to subcontract". That could get us the best of both worlds. We would get lower administration costs and local delivery.

Q33 **Ben Lake:** Do you require that information before the contract is awarded?

Gareth Rhys Williams: If someone is bidding for that, they will have to say who their sub-partners are.

Q34 **Mr Djanogly:** Let me turn that on its head: I have had complaints from small businesses in my constituency that feel lost in the big FM contract; they have the potential to provide a certain part of it very well, but cannot compete with the big guys when it comes to putting together the packages. Have you looked at that?

Gareth Rhys Williams: If you have a detailed example that you can send me, I will ferret down and understand it better. It is a risk that either we or someone will have a competition for original suppliers, and there will be one winner and lots of people who do not win. The question is, "Was that done fairly and equitably?". If you send me the example, I will try to dig down and have a look.

Mr Djanogly: It is quite a common occurrence. The NAO Report talks about the inappropriate use of frameworks—we have discussed some of that—and specifically a competition not having enough suppliers. Our Chair and Sir Geoffrey both mentioned that. I am looking at paragraph 2.9. These are important things that should be mentioned. The first one is "inflated prices from suppliers entering the framework and setting a rate, and the price in the framework over time becoming separate from



HOUSE OF COMMONS

the outside market rate". How would that be catered for in your contracts?

Simon Tse: In terms of the inflated rates going on to the framework, bear in mind that we run a competition for them to get on to the framework in the first place. If they have not sharpened their pencil well enough, they will not get on to the framework in the first instance.

Q35 **Mr Djanogly:** Unless you are rolling over contracts and the market has changed.

Simon Tse: There is some of that, but in terms of extending frameworks, have we done any extensions of frameworks other than during the time of the pandemic? No. From my perspective, bringing the framework back to market and getting competition is the right thing to do. Bear in mind what I said earlier: that is just one bite of the apple. From a Government perspective, when we are working with the supply chain and with bidders, they need to price to get on to the framework.

Best practice is that we then ask our customers to run a mini-competition on frameworks, so that they can then get a better price, bearing in mind that that is the maximum price that that supplier would charge without going through a mini-competition.

Q36 **Mr Djanogly:** As I say, the other one is that there will be "less competition where the framework agreement sets out all the terms governing the provision of the goods/services and it is possible to directly award suppliers without reopening competition"—in other words, this rolling over the contract. How common is that? Do you have any statistics?

Simon Tse: I do not. We do not hold that data, although the new transparency platform will. Also, bear in mind that, from a procurement regulation perspective—Public Contracts Regulations 2015—it is not illegal to do a direct award. In some cases, our frameworks cater for doing direct awards where there is urgency, the price is known and the product is known for what is being looked at from a customer's perspective.

Q37 **Mr Djanogly:** How do you track the extent of these mini-competitions, or can you do so?

Simon Tse: Contracts Finder is one; we ask an authority to complete the information on there. It is fair to say, and it was maybe picked up somewhere in the detail, that that is not done that well across Government. Certainly the wider public sector has not necessarily regularly done that. That changes as a result of the Bill, so we will see far more transparency, which will help all of us—suppliers as well as people like me, who put frameworks in place.

Q38 **Mr Djanogly:** That is something that you will be looking out for, is it?

Simon Tse: Yes.



Q39 **Mr Djanogly:** How does the UK's proportion of contracts going to competition compare internationally? Do we know that?

Simon Tse: I do not. That is not something that we have looked at.

Q40 **Mr Djanogly:** Really? Can you not make that comparison?

Simon Tse: No. From a best practice perspective, it is not uncommon for us to be approached by people from foreign countries asking to come and see how we have done it here in the UK, and particularly how Crown Commercial Services have set about putting frameworks in place, and they are adopting our processes as best practice.

Q41 **Mr Djanogly:** There are existing databases, yet the procurement data does not seem to be used effectively to improve procurement or analyse competition in the marketplaces. Why?

Simon Tse: I would not necessarily say that. Some databases are there, but the information in them is not necessarily as full as it should be. Being able to use it, compare and contrast is not necessarily the right thing to do. Going forward, as I said earlier, that information will be available to us.

Q42 **Mr Djanogly:** Mr Rhys Williams is looking at me, because earlier you put a bit of a gloss on the KPIs that is slightly different from what the NAO seems to be saying about data quality. Being positive about this, what will we do to improve this?

Gareth Rhys Williams: You point to a really important gap. We touched on the new transparency requirements in the Bill; they close the direct award gap under frameworks that you raised, which is what I mentioned. Looking at trends, we are trying to find the sweet spot between having too many bidders for something, in which case all but one of them will have wasted bid cost, so that actually eventually inflates the cost to the public purse, and too few, which is obviously the wrong answer. We want to make sure that we are getting good value for money.

On the other hand, we are rightly criticised when people accuse us of taking the lowest price and forgetting about quality. Looking only at the price dimension is not helpful. We are trying to get the best result for the spend. That is a different dimension. We are trying to get the right number of people in a market. We talked earlier about the risks we find if we end up with too thin a market, but on the other hand if we have too fat a market—if that is the opposite—then nobody makes any money, in which case there is constant churn in providers. There is a sweet spot in the middle of all these things.

It is not as simple as looking at looking at a trend. We could look at trends in sectors such as facilities management, or in parts of the defence industry or in things that we buy regularly. That is where the performance KPIs are important. Are we getting a better result for a better or similar price? We could look at that today.



Sir Alex Chisholm: I just wanted to add a data point to your question about how the UK compares internationally. It is not bang up to date—it is from 2019—but the international civil service effectiveness report compared all these different administrations and lots of different criteria. One of those is procurement. The definition there is the extent to which the Government's procurement processes are efficient, competitive, fair and support value for money. It is close to your question. We came third in the world, so that suggests that it is good. Obviously we would like to be first.

Gareth Rhys Williams: The dimensions we lost out on are the things we are fixing in the Procurement Bill.

Q43 **Mr Djanogly:** We have the Bill coming along. An Act of Parliament in itself is a piece of paper. Could you explain what resources will go in to improving the data situation?

Gareth Rhys Williams: The first thing on the implementation is training. We have a training programme ready to go. There will be some slight changes if things are not signed off in the way that we expect. That training programme is ready to roll out from December. We expect the Bill implementation to be in October 2024. We have some secondary legislation that we will have done by March. That gives six months to implement that before we start. We have a training programme that will cover 20,000 procurement colleagues, and probably 50,000 people in policy areas and other parts of the public sector who also need training. That is 70,000 people, which is obviously a lot.

We have trained nearly 30,000 people in contract management since we started the training, so we can do it. We know how to do it. We have a four-part training programme, depending on how expert you need to be, varying from online knowledge drops, e-learning, through to facilitated training. We need to do the work. That is centrally funded, so we have the money, the people and the material.

The second part is the new databases and what are called the new notices, which contracting authorities are required to submit at each stage in the procurement journey. Frankly, those are much better than the ones we inherited from the EU. The last update to those was in 2015, so things have moved on from a digital perspective. We will use links to external databases to pull information in, so it should be right first time.

Q44 **Mr Djanogly:** Is that all proceeding smoothly?

Gareth Rhys Williams: We are nearly at public beta on that. Simon's business has developed a single log-in, which is already in use in CCS. We have to scale that up for everybody. Come back and ask me again when I launch it, but so far, so good. We need both the training and the database.

There is the question—and the result is in the Bill—of: at what size of contract do we ask contracting authorities for information, bearing in



HOUSE OF COMMONS

mind that there are 20,000 contracting authorities across the country? Where we have all ended up is with the requirement that the transparency requirements will apply to contracts above £2 million for entities that spend more than £100 million.

We will still have discussions with you in future years for contracts of £1 million, or for contracting authorities that only spend £99 million, which will not have to submit this data, but the £100 million and £2 million covers the huge majority of spend across the public sector, and will be a massive step forward from where we are today, where only central Government have to provide the information that Simon and I are working from. That will extend right through the public sector, subject to the £100 million and £2 million caps.

Q45 Chair: I hear good reports of the role that Crown reps have played in improving business and sector engagement with Government. Can you give us an update on how that is working, in terms of the issues we have discussed about building the market? Has that helped Government understand the market better?

Gareth Rhys Williams: The reps have been a fantastic innovation. They were not mine—I inherited that—but we have 25 reps. We would love to have more.

Q46 Chair: Are all the posts filled at the moment?

Gareth Rhys Williams: We are just about to announce the replacement for the SME rep, so yes, but some of the reps do two or three companies. It would be better to have more. The reps are part-time senior people in the portfolio stages of their career, and they mostly mark individual vendors. They will never have worked for that vendor, and they are contracted not to work for that vendor in the future, but they will have spent their career in that industry, so they know the tricks, nuances and rules of thumb of an industry. They work with either a group of suppliers—let us say the consultants or the banks—to drive best practice, pick up best practice and solve issues.

Q47 Chair: Do you think that has helped the type of contract and the procurement that you are doing, because there is that knowledge and connection with the sector? There is always that tricky thing: when you are a Minister, you cannot have any contact with any supplier because you might contaminate your decision-making. In a way, Mr Rhys Williams, your profession is now that bridge. The Crown reps are certainly the extreme edge of that bridge; they have a connection with a contractor and a very strong footprint in Government. Is there anything that could be improved about it, or any worries you have about the process?

Gareth Rhys Williams: Frankly, they are the secret weapon, because they work for a very low day rate, they are all DG or permanent secretary-level people, and they bring knowledge, common sense and cut-through to the issue.



HOUSE OF COMMONS

Q48 **Chair:** Can you give examples of instances where the role of the Crown rep has meant that there has been better procurement? You may not want to go into a specific service, as that might narrow it down to the individual.

Gareth Rhys Williams: Some of the reps are working with Simon's team on cloud procurement. How do we get a better price value for Government for cloud and IT services? We have two reps there who know that industry really well. It is a narrow market, with four or five providers. How do we make sure that we get a sensible value for them and sensible services, and do not get technical lock-in? To give an example of the success of it, normally the Crown reps look at companies that supply multiple Departments or multiple parts of the public sector, but what they are actually bringing is supplier development and supplier relationship management. The MoD has had a number of reps and is looking to expand. We are just starting with the NHS, where those suppliers do not typically supply the rest of Government or the rest of the public sector in a large way, but nonetheless that supplier development skillset is hugely valuable and recognised in the MoD and in the NHS. We will be getting more reps. We have enough for today's business, but everybody wants us to expand the programme.

Q49 **Chair:** It is interesting to me that some of these innovations that have come in since I have been on the Committee seem to be making a difference.

I have a couple of quick-fire ones, if I may, as time is marching on. Contract extensions are not clearly labelled on the Contracts Finder. Will you track that better under the new legislative framework? You can find them, but it is not as clear.

Gareth Rhys Williams: Extensions are there. What is clearly not there are modifications, so if we change the scope of a contract, that does not track through. Yes, that will indeed be done much more clearly. It is possible to have confusion on dates, on value and on what the change is. There is a modification notice that is part of the new build.

Q50 **Chair:** That will be good. That will be easy to find. You have a lot of data to transfer over to the new system. What do you think the challenges will be of that? You have to make sure that people can compare what has gone before with what is going into the new system. Will you actually migrate it all over?

Gareth Rhys Williams: We will migrate it over. We have a lot of data, though not in the sense that a retailer has a lot of data. We have 10,000 contracts and 20 fields per contract, so it is not an insurmountable problem. It is very important for us to maintain that data, because we want to be able to continue to track. We talked about KPIs earlier. We want to have a history trend of KPIs, so it is absolutely in our interest that all of these things flow through.



HOUSE OF COMMONS

We have not mentioned the huge change, which is the single supplier and the single source of data, Tell Us Once. Part of our problem, which the NAO has pointed to, is that because multiple contracting authorities—20,000—can enter data on suppliers, we actually have the same supplier with multiple different identities in today's database. The Tell Us Once database will clear all that up, but only going forwards.

Q51 **Chair:** What about when you have consortia bidding? I am thinking back to when we had rail franchising, where you would have new consortia created, often for a particular bid, but often of existing suppliers.

Gareth Rhys Williams: We will see the consortia. We will know who is in the consortia. We will be able to track the performance of the individual consortia members. Someone will have to pull that information out and run it.

Q52 **Chair:** If we, as a Committee, wanted to follow through where money was being spent, from the new database we would be able to disaggregate the money being spent to a supplier, even if they are part of a bigger consortium.

Gareth Rhys Williams: You would have to add up the fractions from the consortium.

Q53 **Chair:** There is a little bit of maths involved, but your average member of the public could look it up and find it.

Gareth Rhys Williams: The purpose is to make this data much more easily accessible in machine-readable codes, so people can read the contracts and search contracts without having to print them all out and download them all.

Q54 **Chair:** How far are you ahead in the digital strategy? Will you meet your target date of 2025? You are planning to have the digital strategy for public procurement in place by March 2025.

Gareth Rhys Williams: That is a slightly different thing.

Chair: It is different from the database.

Gareth Rhys Williams: The important thing is to get the transparency database up and running in time for October 2024.

Q55 **Chair:** What about the wider digital strategy? Will that be in place by March 2025?

Gareth Rhys Williams: There is a digital strategy that comes from the CDDO. That is a rolling three-year strategy.

Sir Alex Chisholm: That concludes in June 2025.

Gareth Rhys Williams: That is the present strategy that is masterminded by one of my colleagues who holds the post of CDDO, Government chief digital officer.



HOUSE OF COMMONS

Q56 **Chair:** Do you think you will save money by having one database rather than two, when you are bringing Contracts Finder and Find a Tender into one place?

Gareth Rhys Williams: We will not save much money, but our suppliers will save money. We stopped counting at 71 registration databases. It is annoying for suppliers, particularly SMEs, to have to fill in different registration systems. Where we will save money is on assurance, and the opportunity will present itself when the database is full. At the moment each contracting authority is supposed to check that their vendor is still financially stable, etc. That will be much easier when we have it all in one place. We will be able to do it once. That will also save SMEs money.

Q57 **Chair:** In terms of liability, if I was a public sector contractor and I found that there had been an assurance on a supplier, but actually someone had made a mistake in that assurance down the line and I am responsible for a problem, who is liable? What is the liability?

Gareth Rhys Williams: You mean you are a public sector employee.

Q58 **Chair:** Yes, and relying on the assurance that someone else has done. You say, "This assurance has taken place on this organisation. I can do a lighter touch", or, "I will not need to do an assurance".

Gareth Rhys Williams: That is a tricky question. I am going to have to throw that to Simon, because it is likely to be him that ends up doing the assurance. The whole point of this database is that we will be pulling live data from Companies House or from the Charity Commission. It is the supplier's own data that they will be telling us is correct as of a certain date. We will then be assuring that.

Simon Tse: Ultimately, it will be the accounting officer's responsibility to assure themselves that the assurance that their people are taking on their behalf is acceptable to them and their risk profile.

Q59 **Chair:** Although you are hoping you will drive out costs, there might be some caution, depending on the risk factor involved in the contract; the assurance may have to be redone.

Gareth Rhys Williams: Perhaps not redone, but perhaps taken to a further level. For large and risky contracts, we have also instituted the GMCP, which parallels the GMPP, the Government major projects portfolio. We now have a Government major contracts portfolio, where we are broadly looking at the 100 riskiest contracts across Government and analysing those as a central group. What are the risk factors? How can we improve the delivery and reduce the risk of those contracts? That is not quite the same as assurance, but it goes to the same concern that something large will go wrong. That might be the failure of the supplier or it might be for a number of different reasons.

Q60 **Chair:** The risk will still lie with the accounting officer concerned, and they will have to make their judgments.



Gareth Rhys Williams: Yes.

- Q61 **Peter Grant:** Sir Alex, one of the stated key policy objectives of the Procurement Bill is an improvement in the embedding of transparency into the process. Where would you say has been the weakest area for transparency as things stand?

Sir Alex Chisholm: As you just heard from Gareth Rhys Williams, part of the problem in the past was that there have been different places to look for the information. Having a single database will greatly improve that transparency. It is also true—this has been found in a number of NAO Reports in the past—that the speed with which Departments have updated their information about contracts, and the completeness of that, has sometimes left quite a lot to be desired. That is an area of improvement as well.

The third dimension is looking over time. It is very useful for potential bidders to be able to anticipate contracts coming up, so they can prepare and invest. The transparency over the pipeline is probably the most important area.

- Q62 **Peter Grant:** I can see the benefits of the Procurement Bill in other areas, but it strikes me that nothing that you have just described to me needs primary legislation to put it right; it is just a matter of either Government policy or civil service practice, is it not? You do not need to change the law to have one database instead of two, for example.

Sir Alex Chisholm: Not for that, but in terms of the reporting obligations that we have placed on contracting authorities, those are our obligations and those were not caught by the Public Contracts Regulations 2015, so we have had to change the law to do that.

- Q63 **Peter Grant:** I know the National Audit Office has highlighted, for example, that within central Government, only one out of 16 Departments has achieved the required speed of publishing the results of their own contracts within 30 days. If we cannot get Departments to comply with the rules as they are now, what assurance can we take that a new set of rules under a new set of legislation is going to be any better respected? You want to go into that category.

Gareth Rhys Williams: You point to a good issue. I track the prompt publishing. We are cleaning that up. I have this quarter's figures with me. Where we see issues is not ideal. This particularly relates to modifications, which is the point that the Chair touched on. Where we find contracts that have been modified significantly, we should be republishing the new contract with the amended terms. We suffer from poor data where we have made those modifications and where we think we have published them but we have not. We may have published what is called the contract note, but we have not published the actual underlying contract.



HOUSE OF COMMONS

The new modification notice that we discussed earlier will clarify that. If you have to issue a modification notice, you should, also, if it is a contract of the relevant size, be publishing the actual contract. That is the main cause of the gap that we have at the moment.

We have cleared up much of the running contract. We had a particular issue during Covid, when we got behind on publishing, but that got caught up. The ones where we still have issues are where we are finding old and usually modified contracts, where we had done the contract award notice but we had not done the modified contract.

- Q64 **Peter Grant:** The NAO has highlighted that it is so difficult for prospective contractors to get the information they need. There is now actually an industry of people who set themselves up in business and charge their customers a lot of money just to go and dig out the information from all of the little squirrel holes it is hidden away in. That creates inefficiency in the system. It is an extra cost to businesses that want to contract with the Government. How soon can we expect to see that done away with, so that businesses that need the information can sit down with their phone or at their desktop and find the information for themselves, rather than paying a third party to find it for them?

Gareth Rhys Williams: It is not a huge industry. There are a couple of firms that do it, and do it very well, so they will possibly not welcome the new database. You are right that the net result is absolutely in favour of transparency. Those companies are pulling out the aggregate data. If you are a supplier, you can register on Contracts Finder, and you can put in the codes for the types of contracts that you are interested in, and you will get an alert. It is similar to what many other services offer. A potential supplier can get that information very easily and set up an alert.

We have now done a parallel for grants. I know that is not particularly the subject of today's hearing, but we spend £50 billion on general grants. We have Find a Tender for contracts and we have Find a Grant for grants. I forget the number, but something like 140,000 people have used Find a Grant. That data is readily available on both sides of the spectrum—when we are looking for entities to contract with, or to award a grant to. What is not so easily available is the aggregate data that we talked about. I was about to name the company, but I should not do that. A couple of providers do that analysis.

- Q65 **Peter Grant:** I should make it clear that these businesses are not doing anything illegal. They are not selling state secrets; they are just selling information that is there if you take your time to look for it. Can I look at the framework agreements? We have had quite a lot of discussion about them. My understanding is that once somebody is on a framework, the Department does not have to publish any details of contracts that are awarded under that framework. Are there any plans to change that?

Gareth Rhys Williams: I do not think that is right. What we do not know is if there has been a direct award, but we do know that there is a



HOUSE OF COMMONS

contract that has been let under it. That contract gets published, so that is not quite correct.

Q66 Peter Grant: The reason I ask—I do not want to name the company here, because last time companies were named in this Committee, it set quite a few hares running—is that there was a company that got £137 million-worth of contracts from the Department of Health and Social Care. Most, if not all, of those contracts were not published when they were awarded, and the Department said it did not have to publish them because they were being awarded off a published contracts framework. It was a matter of public record who was on the framework, but the Department was not publishing how much actual work anybody got from that framework. Is that something you think is defensible?

Gareth Rhys Williams: Send me the detail on that. The contract publishing at the moment only applies to central Government. I do not know the detail, but please send me the detail and I will respond to you. There was a case in the papers about six weeks ago that talked about this. We replied back to the relevant journalist, and it turned out the contracts were from NHS trusts, which today do not fall under the contract publishing; they will do in the future.

Peter Grant: My understanding is that it came from the Department of Health and Social Care.

Chair: Mr Rhys Williams is obviously blind on this issue.

Q67 Peter Grant: Taking that a bit further, and again, without getting into details, this business and its owner had certain characteristics that might have led to a requirement for potential conflicts of interest to be examined at the time when they were either being put on the framework or being given the contracts. Is there a need for greater transparency, including the mandatory publication of details if the Department identifies that the contract is going to somebody who might be seen to members of public as representing a conflict of interest?

Sir Alex Chisholm: I can offer a general comment. I do not know the particular circumstances, but in the Report the NAO did in 2020 into procurement during Covid, fairly enough, the NAO said that more care needed to be taken by Government, particularly where conflicts arose, to show how they had considered those, and how they had been managed. That was one of the things that has gone into the new guidance on management of conflicts of interest across Government.

Q68 Peter Grant: Is it fair to say that one way of making sure that new guidance is being complied with is to increase the ability of the public to see who is getting the contracts? Other things that might lead to conflict of interest are usually things that have to be published on other registers. Is it fair to say that if the public knew that they would be told when a “conflict of interest”-type person was awarded a £100 million contract, they could satisfy themselves that the necessary checks had been done?



If a contract only comes to light five years later, does it not give the impression that something has been hidden, even if it has not?

Gareth Rhys Williams: The contract publishing rules apply above £30,000. Anything above that has to have a contract award notice published, which says who has won the contract, what the value is, what it is and so on. That information is already available to the public, but it is a limited amount of data: who, what, when, who by and for what? Publishing the actual contract, as a central Government thing, will be a wider thing for contracts. I think it is anything above £5 million. The detail that you are talking to, which a citizen might want, is already being published by everybody.

Q69 **Peter Grant:** We can all say that we would like the idea of greater transparency. Is there any resistance to that from businesses? Would businesses, in general, prefer to be more transparent in their dealings with Government if it allows them to see what is happening elsewhere?

Gareth Rhys Williams: Businesses were very happy with the idea of publishing KPIs, because it is in their interests for the public to see that they are actually doing a pretty good job. The pushback is usually not from them, because they have already given that information to the contracting authority. The trade-off is 20,000 contracting authorities. Where is the burden point of the data that we are asking—or now, in the Procurement Bill, requiring—those contracting authorities to publish? That is what has led to a healthy debate about where we have ended up with these numbers and these thresholds. We have got to a good point, but at the end of the day it is a political discussion as to where you choose to set those levels.

Sir Alex Chisholm: Sometimes, in the detail of the contract, the contract owner claims there is confidentiality to some aspect of that, so there can be a process of redactions. That can take a bit of time. That is one of the factors that sometimes leads to delay, but that is the only other area companies tend to be wary of.

Q70 **Peter Grant:** I want to move on to transforming public procurement and the implementation of the programme. What does successful implementation look like? How will we know when things are better than they were?

Gareth Rhys Williams: It would be easy if we chopped the country into two halves; we could then assess over time. The new regulations enhance the open, fair and transparent aspects of today's rules, but they are much more flexible and they are much simpler. The idea of the simplicity is to make procurements faster, and to involve a wider range of people. We have already talked about how many people have bid in the past, so comparing how many people will bid in the future is tricky, because we do not have that data today.

We can look at the number of challenges we get and the number of disputes we get. We can look at the KPI performance. Is that continuing



to go up? We can look at social value criteria and whether we are seeing that those are being usefully applied to generate more than just price and quality for the contract itself.

Part of the new Bill is what is called the national procurement policy statement, so the Government of the day can say, "Of all the social value criteria that we have on our published menu, we would like procurements to focus on the environment", for example, or training, or local employment. Obviously it is for the Government of the day to determine what those are. We will be able to look at those and see how many of those criteria have cropped up in local procurements. It is those sorts of things that we can look at.

Q71 Peter Grant: I will resist the temptation to go into detail about the danger of going into managing the KPIs, because that can sometimes be counterproductive. I see the permanent secretary nodding—I suspect from bitter experience. You mentioned social value, which the Chair mentioned in relation to using procurement to support small and medium-sized enterprises. How much consideration has been given to using the massive purchasing power of central Government and the rest of the public sector to encourage businesses to behave in a way that meets the Government's other objectives?

Sir Alex Chisholm: We can use the net zero example.

Gareth Rhys Williams: There are a number of things we have done. We will not deal with businesses that do not pay promptly. That is currently at 60 days if they are trading in the rest of their non-Government business. We have ratcheted that up a little bit. We pay in 15 days and we require payment terms of 30 days to flow through the supply chain. That will be toughened up again with the new Bill. That will cover everything, whereas at the moment it only covers certain sectors.

A while ago we introduced a requirement for suppliers for large contracts, contracts over £5 million, because you do not want to overburden SMEs. There is a requirement that a company will have a net zero policy in place and a target for that. There is a modern slavery exclusion as well. Those are three things that Government have felt appropriate to mandate.

The next level down of issues are the things that could be covered in the social value elements of the contract. As procurement staff, we are required to allocate at least 10% of the evaluation criteria to a contract-by-contract specific social value dimension. The risk of that is that everybody chooses a different social value dimension, and that actually might make it harder for SMEs. That was not the intent. At the time we did that, we provided a menu of social value criteria, with the metrics that we are recommending should be used to assess those, because it does need to be quantitative, rather than just qualitative.

That has been regarded as a huge success. At the CIPS awards event this year—CIPS is the professional body for procurement in the UK—there is a



prize for the best use of social value criteria and the best demonstration of social value criteria, not just in public procurement, but procurement right across the country. This is a really positive trend that we should celebrate.

Q72 Peter Grant: I have one final question, and it goes back to the comment earlier about a big, main contractor farming out the work to smaller and smaller subcontractors. That is all very well, first, as long as the main contractor stays in business, and, secondly, as long as they treat their subcontractors the way they expect to be treated. Carillion is the most spectacular recent example; the main contractor was getting paid and was withholding payments from the subcontractors. That meant that when the main contractor went down, all the money in their bank account went into the liquidation of the company.

Have you looked at the possibility of introducing some kind of payment bond for big public contracts, so that the money is paid to the main contractor, but if the main contractor fails, that money is protected to go out to small businesses? In some cases in my constituency, small businesses put six months of work on nothing except Carillion, and lost all of it. Is there a way, within the contract terms, for these really big construction-type contracts, that we can protect the small-business sector and encourage them to take on these contracts?

Gareth Rhys Williams: There are two things on that. We have put a prompt payment policy in place. Carillion would not have passed today's rules. The 60-day point that I talked about covers how a supplier is paying its supply base, not just for Government work but across its entire business. The subcontractor supplier can look at that data; it is public data. It can check payment practices on gov.uk, and they can download the history of any company in the UK that provides a return to Companies House, and they can see whether that company is a good or bad payer. There is data on how much they pay in 30 days, 60 days and 90 days, how much they pay on terms and so on. That is really useful information. BEIS generated that four or five years ago. As a subcontractor, you can look and say, "Do I want to do business with this prime contractor?"

The second thing is, as I mentioned, we require payment to be paid down in 30 days in the public supply chain. That is being widened in the new Act. We have a small group of officials called the Public Procurement Review Service that a sub-supplier can complain to. We are up to about £11 million of payments we have unhooked that were in exactly the trap that you are talking about.

For payment bonds, there is a scheme that is reasonably popular in the construction industry called project bank accounts. That does exactly what you suggest, but it has a couple of downsides. First, the money is effectively put into a trust for named suppliers. Typically, at the time that a contract is let, those contracts are only known about for the top couple of tiers, and the companies you are talking about are maybe three, four,



HOUSE OF COMMONS

five or six tiers down. Are they known at the time of contract signature? If they are not, then they do not get on to the list.

That money is released only when the contract layer or the contract scope of works that it applies to is complete. If you imagine a pyramid, someone down in the supply chain here may have done their work. I am thinking of a mythical bridge somewhere. They may have provided the steelwork for the bridge that the concrete was poured into, or that the steel was laid into, and so on, but the bridge itself has not been signed off. Even project bank accounts, which in principle sound like a great idea, do not actually solve the problem much better than when we force payment to be passed rapidly down the supply chain, which is what the prompt payment code does.

- Q73 **Chair:** Picking up on the social value element, some of the smaller businesses that I have been in touch with are absolutely committed to delivering social value, but if it is a smaller contract, it is quite difficult to deliver. If you break it down, it might be 0.2 of an apprentice or something, if you are looking at that element of social value. Is there any work being done to ensure that social value can be easier to engage with for the smaller businesses that want to engage, where the numbers just do not work for them, in order to keep the level of competition up in the market?

Gareth Rhys Williams: That is a great point. The social value criteria apply at a contract level. You are right that it then ends up at a small number, but it is related to the contract, because otherwise the large contractors who may or may not do great stuff in aggregate will always win on those. It is done at a contract-by-contract level. That then requires us to specify in evaluatable detail what the social value criteria is.

- Q74 **Chair:** Writing all of that must be an awful lot of work for your team, but those contractors concerned might be a small specialist IT company, for example, working across small parts of different contracts. They have small contracts that in aggregate could deliver an apprentice, but if it is done contract by contract, they cannot really scale the ambition up or down. We all acknowledge social value is a good thing, but it is not being delivered in some cases, or it is not easy for them to deliver.

Gareth Rhys Williams: The SMEs typically do better. This is seen as SME-friendly. It helps local employment because all of the contractors bidding for that small contract have to answer the same questions.

- Q75 **Chair:** Yes, but if you have a contract that is so small that you are not going to be able to fund an apprentice, or a certain number of apprentices—that is one example, but there are other elements of the social value criteria—then it is very difficult to shoehorn in the social value. Are you planning to review this, or engaging with the sector to discuss this?



HOUSE OF COMMONS

Gareth Rhys Williams: Yes. One of the purposes of the SME Crown rep is to try to tease that out. If something is so small as not to be easily measurable, that will also apply to the large company that is bidding on that. If the larger company says, "I will put a whole apprentice on that", but the smaller company can only put half an apprentice on it, maybe we do have the right result. In that example, it would be the wrong metric to apply to that contract.

Q76 **Chair:** The big company could cross-fertilise.

Gareth Rhys Williams: No, because it has to be measured on just that one contract.

Chair: You can see the point. We cannot go into it in more detail, but I can separately engage with you on this, because it is certainly an issue for some of the small businesses in my constituency that believe in social value but find it difficult to deliver.

Q77 **Mr Djanogly:** With all of these proposed changes, what support do you consider that suppliers will need, and what support are they going to get from you?

Gareth Rhys Williams: We have written some supplier training packages, which will be going live sometime in December. We have had several rounds of extensive consultation with industry about this. It is fair to say that the consultation results were vastly positive about what we are doing. It is principally a training thing, so that they understand the new forms of contracting that we will be entering into.

Q78 **Mr Djanogly:** Are you also looking at it from the point of view of SMEs and what extra support they might need?

Gareth Rhys Williams: There will be three forms of contract going forward. There will be direct awards, which we talked about at some length. There will be what is called the open procedure, which is exactly the same as today's one. There will be frameworks that will be more flexible, as Simon said.

The big difference is that we have rationalised all the other types of procedure into one procedure, which in the future will be called flexible competitive. In the past, current mechanisms have tended to be used for the much larger contracts, so were less relevant to the SME. Open procedures, direct and frameworks are all easier and better. The big change is not so much in the SME area, so they will see this as better. Having the Tell Us Once facility is a big step in the right direction for them from an admin and data management point of view.

Sir Alex Chisholm: I am conscious of time, but we have been exploring all the changes that are coming with the Procurement Bill, which we are excited by. It is good to hear that the Committee shares that view. I want to emphasise that the NAO Report has some excellent guidance in general about best practice, which is of benefit to everyone across the



HOUSE OF COMMONS

public sector involved in procurement. It has some specific recommendations to Cabinet Office, and we will respond to those once we get your report. I am sure we will respond positively.

Since we are talking about competition in public procurement, if you will excuse me as a former chief exec of the Competition and Markets Authority, another aspect of this is making sure that abuses of competition are detected and sanctioned. There has been very effective work there in relation to cartels in construction and other sectors, which have led to major fines. There are little islands of non-competition that sometimes occur in the pharmaceutical sector, which has been very vigilant in trying to deal with so-called abuses of market positions. I just wanted to highlight that that is another safeguard that is very relevant here.

Chair: I fear we have not used your previous experience enough. We were discussing this in preparation.

Sir Alex Chisholm: We are here to talk about competition in public procurement, but I am not the only person around this table who used to work at the CMA. You will excuse that small notice, but I just thought that was important to securing public value in the overall scheme of things.

Q79 **Chair:** I want to touch on how you are going to prepare all the different Departments and public bodies to deal with this. First of all, in terms of timings, how quickly will it be after Royal Assent?

Sir Alex Chisholm: We have already started on that in anticipation, obviously with the important caveat that Parliament has not yet passed it. The Civil Service Board had a briefing in July about that, which was putting people on notice to make sure heads of Department were looking forward to this and ready for it.

Q80 **Chair:** Do you have your slots for statutory instruments in place? We have the King's Speech coming up, so it is difficult for you to predict and tell us this.

Sir Alex Chisholm: We think all of that will be done by March. That will give a clear six-month arch, as Gareth described, for the full roll-out of the training programmes. Those suites are ready to go.

Q81 **Chair:** What about other public bodies, such as local authorities and health authorities? How are you making sure that they are ready?

Gareth Rhys Williams: There is a constant drumbeat, in our commercial function calls, on where we are on the training programme, so they all know about it. I did some videos the other day that are ready to be rolled out. We do not know the names of all the people we might need to contact.



HOUSE OF COMMONS

On the other hand, there are north of 50,000 people now signed up for the Government Commercial College. We think we have 20,000 procurers we need to talk to. There will be people whose names we do not know at the moment, but hopefully relatively few. We will be trying to identify them by ensuring that other stakeholders make sure, within contracting authorities, that the right people are being trained at the right level, because that is as important as identifying the people to start with.

Q82 Chair: One of the concerns I wanted to pick up before we finish is this issue of free trials offered by companies such as Palantir. They offer a free trial, and then they win a contract, and obviously Covid threw up this general discussion as well. The first question is simple: are suppliers winning contracts by offering free trials? Does that help them?

Gareth Rhys Williams: There have been a couple of examples. You mentioned some of them. In the report you had on homes for Ukraine, a letter I sent to that particular vendor may have been shared with you. Vendors are free to offer those sorts of things. It is down to us to reject them, because they rarely lead to value for the taxpayer.

Q83 Chair: Do you mean it rarely leads to value for the taxpayer if you are offered the free trial?

Gareth Rhys Williams: I mean accepting the free trial, particularly in the tech era. All the playbooks talk about the perils of accepting these. The letter I sent round also went to all the central Government contracting authorities and ALBs, which is primarily the area where this is an issue. It is not good practice. It leads to all sorts of future problems. It is tempting at the time, but it is usually a mistake that we repent of later.

Q84 Chair: Is that partly because there are not proper contractual arrangements around it?

Gareth Rhys Williams: There may be proper contractual arrangements.

Sir Alex Chisholm: There is a risk of dependence and lock-in.

Gareth Rhys Williams: Because all our assurance mechanisms are based on the value of the contract, if we do not detect it because it is a small contract—i.e. a pound, or nothing—then it does not trip all the tripwires. We cannot think of a better way of setting the tripwires, except on value or risk.

Q85 Chair: It is interesting, because one of the things I heard from smaller businesses related to this issue is that they are often asked to give a seminar or advice to Government for free. When they are small, their time is very valuable, so to prepare and do half a day's presentation or a couple of hours is a lot of time and money for them. They are happy to share, but they are worried that their knowledge will be given to Government for free, basically.

We talked about the free trials. I hear what you are saying on that, but what about the other way around, where Government are saying, "Come



HOUSE OF COMMONS

on. Have a chat with us. Help us out here,” which sounds like it could be a benevolent way of engaging with the sector?

Gareth Rhys Williams: It could be clever procurement.

Q86 **Chair:** Do you want to explain more?

Gareth Rhys Williams: We should not be raiding a company’s IP. That is not right. On the other hand, we should be doing early market engagement, as we discussed earlier, and understanding what the market can deliver.

Q87 **Chair:** If that early market engagement is costing them time and money and then they keep losing bids, there is a point for them where they might say, “I am not going to bother with this”.

Gareth Rhys Williams: Then they will not bother, and we will be the poorer as a result. We need to make sure that our early market engagement does not stray. This is a point when it is easy to say, “You want as many bidders as possible.” No, not necessarily, because that gets us into exactly the trap that you highlight, and then good vendors will not bid for the things that they might actually win. That comes down to us being clear on what we want, which was Sir Geoffrey’s earlier point. There is a sweet spot to be found.

Q88 **Chair:** I met a business on Friday in Shoreditch, a major business working globally across five countries, which is really innovative and cutting-edge in reducing food waste. They were saying that if you bid for a contract and you have a one-in-five chance of winning, you begin to stop bidding because you do not have the time. I met a couple of companies and one was slightly smaller, but there is still a lot of time and effort and money to put into that, whereas the criteria could be tightened. It might be perverse to the competition rule, but I just wanted to get your thoughts on it, as you are in front of us. What about narrowing it down and getting it to two or three bidders?

Gareth Rhys Williams: You are exactly right, but colleagues should not tempt us to want to have more bidders for every contract, because the right answer in that example might be three rather than 10. This idea that having more bidders is necessarily a good thing is not true.

Q89 **Chair:** The right bidders is what you are saying.

Gareth Rhys Williams: Yes, the right bidders, but assessing the right number from just a single metric is—

Q90 **Chair:** Are you alert to this? When you are drawing up a shortlist and there is a company that is going to be an outlier, are you and they aware that they are the third or fourth wheel and might not get across the line? It is expensive for them to put in the time and the contract commitments.

Gareth Rhys Williams: Yes, exactly. We keep coming back to the new rules. The purpose of having this flexible, competitive procedure is that we can design a procedure if we have the instance that you are talking



about. We might have an early first stage that is relatively easy, a discussion—a beauty parade, as you would have in the private sector—and then move into a formal submission of bids and then a tendering phase. That is very difficult to construct under today's rules, but in the future rules, that is exactly the point: to come up with a mechanism that winnows down.

I was in front of you to talk about ventilators. We had a similar but different exercise on vaccines, and we have a similar but different exercise on small modular reactors. How do we identify, at relatively low cost, the people who can actually provide what we are looking for? We then double down on that. The generation of that mechanism is exactly what the flexible competitive procedure is for.

Q91 **Chair:** What does success look like for you? What feedback would you expect from the sector, if that is working?

Gareth Rhys Williams: It is exactly the opposite of what you have said, where a vendor says, "I went in for something and it turned out later that I was not the right supplier." What we want is for vendors to enter something with a good chance of winning. The language is also important. These things are not a lottery, in the sense of, "I went in. I was one of five. I only had a one-in-five chance". That implies that there is a randomness; of all the things that public procurement is, it is not random. Sometimes we are accused of being over-specific.

Q92 **Chair:** It is basically weeding out the ones that will not make the grade.

Gareth Rhys Williams: At an early stage we should weed out the people that are never likely to win it, because that wastes our time and their time and is in nobody's interest.

Chair: Thank you very much. If no colleagues have any other questions, we will call the session to a close. Looking at procurement is obviously our bread and butter. Having sat here since 2011—it is almost exactly 12 years—it is good to see the improvement. There is always more to do, so we will always keep chasing and snapping at your heels. There is a lot to be proven when the new legislation kicks in.

Thank you very much indeed for your time. The transcript will be available on the website uncorrected in the next couple of days. We will be producing a report on this, probably before Christmas, but I am losing track of time; the King's Speech and other things get in the way.