



Communities and Local Government Committee

Oral evidence: [Local Government Procurement](#), HC
712

Monday 25 November 2013

Ordered by the House of Commons to be published on 25 November 2013.

Written evidence from witnesses:

Panel One:

- [Centre for Local Economic Strategies](#)
- [Joseph Rowntree Foundation](#)
- [National Council for Voluntary Organisations](#)

Panel Two:

- [Federation of Small Businesses](#)
- [Market Dojo](#)
- [Dr Pedro Telles](#)

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Members present: Mr Clive Betts (Chair); Bob Blackman; Simon Danczuk; Mrs Mary Glendon; James Morris; Mark Pawsey; John Pugh; John Stevenson; Heather Wheeler; Chris Williamson

Panel One: Questions 334–361

Examination of Witnesses

Witnesses: **Matthew Jackson**, Associate Director, Centre for Local Economic Strategies, **Richard Macfarlane**, Consultant, representing the Joseph Rowntree Foundation, and **Oliver Henman**, Head of Partnerships and International, National Council for Voluntary Organisations, gave evidence.

Q334 Chair: Welcome, everyone, to the fifth evidence session of our inquiry into local government procurement. Before we begin proceedings, I would ask all Members of the Committee to put on record again their declarations of interest. They are on the register, but could we still put them on

the minutes of our meeting as well? I am a Vice President of the Local Government Association. Let us go around the Committee.

Simon Danczuk: My wife is a councillor in Rochdale.

Mrs Glindon: My husband is a councillor in North Tyneside.

Heather Wheeler: I am a Vice President of the LGA, and my husband is a councillor.

Chair: That is it for this inquiry; we have those on the record. Also for the record, if witnesses could say who you are and the organisation you represent, it would be helpful.

Matthew Jackson: Good afternoon. I am Matthew Jackson. I am the Associate Director at the Centre for Local Economic Strategies.

Richard Macfarlane: I am Richard Macfarlane. I am here representing the Joseph Rowntree Foundation, for whom I am an Associate Researcher.

Oliver Henman: I am Oliver Henman. I am the Head of Partnerships at the National Council for Voluntary Organisations.

Q335 Chair: Thank you very much for coming to give evidence this afternoon. One of the things we will be looking at is how procurement might be used for a number of objectives. We will begin by looking at how it might be used by local councils to tackle social disadvantage and poverty. Do you think councils are actually doing this effectively? Are they getting it right, or is there more they could be doing? Who would like to start?

Matthew Jackson: In short, the answer is yes, in some localities. It is very much dependent upon the culture of procurement officers within particular local authorities. Where there is an effective strategic relationship between procurement and economic development, in particular within local authorities, that is where procurement leads to wider benefits.

There is effective engagement between procurement officers and economic-development practitioners where there is economic intelligence around the challenges of the issue—around things like worklessness, low skills, poor business sustainability and those sorts of concerns, i.e. where there is a culture of achieving wider benefits through the process of procurement.

Oliver Henman: At NCVO, we understand that local authorities are facing a challenging economic environment. Funding for services is decreasing while demand is increasing. This does change the balance of what can be funded and what cannot be funded. However, in these tough conditions, more effective procurement would enable the resources that are available to be better targeted. It is important to involve community organisations early in the process, even pre-procurement, in order to identify the needs of a local area and make sure resources are best used for that area.

Richard Macfarlane: From my limited experience of the number of local authorities I meet, many are still quite unaware of it at a practical level. Procurement officers often have not heard about the Public Services (Social Value) Act at all; it is quite new. On the other hand, quite a lot of them have been doing social value for quite a long time. They have had powers under the Localism Act. The LGA, for example, put out guidance on targeted recruitment and training as a social value three or four years ago. There has been a lot of activity. The first local-authority contract I did with social value in it was in 1981. It has been around and on the blocks for quite a

long time. The issue is pushing it forward in the very crowded agenda that people are trying to deal with at the moment.

Q336 Chair: How far is it down to whether individual procurement officers might know what is going on and understand how to do it? How far is it an issue of political leadership from councils that requires officers to recognise these objectives and pursue them?

Richard Macfarlane: Political leadership is key, because it tells officers this is a high priority on the long agenda of things they have to deal with: re-contracting, cuts and changes of all sorts. For places like Birmingham or Nottingham or Liverpool, which are the cities I have been working in, political leadership is key to saying, "This is something we have to take forward and are going to take forward". The officers then get their ducks in line and start to work out how to do it and where to do it and so forth.

Matthew Jackson: Some of the most effective practice is where local authorities have aligned their procurement strategies, priorities and practices with wider corporate strategy and community strategy as well. To give an example, we have done a range of pieces of work with Manchester City Council. One of the simplest things they have undertaken is to put, at the outset of each of their tender documents, what their core corporate priorities are as a local authority, which are around reducing worklessness, raising aspiration and private-sector growth. That flow of priorities and objectives flows through the entirety of the procurement process.

That is important in terms of the supply chain as well. If you are influencing the behaviour of the supply chain to think about what your core priorities are as a local authority, it can have knock-on consequences in terms of how they behave and what added value they deliver through procurement beyond the delivery of services.

Oliver Henman: Furthermore, part of it is simply through a lack of awareness. In many cases, procurement officials do not necessarily know what is allowable even under the current rules. Certainly, with the new rules proposed now by Brussels, the new EU Procurement Directive, that lack of understanding may well be further exacerbated. There is a lot of work to be done around awareness-raising, highlighting to officials what is actually possible, and highlighting good examples of where more innovative procurement has been used.

Q337 Simon Danczuk: To what extent are local councils exploiting the Public Services (Social Value) Act 2012 in terms of encouraging social benefits to their communities?

Matthew Jackson: The Public Services (Social Value) Act is a continuation of many of the things local authorities were doing anyway, particularly on the capital side of procurement—more construction-type services. For years, a significant emphasis has been placed upon apprenticeships, job creation, and skills and training. The Public Services (Social Value) Act has enabled authorities to formalise activities around wider social and economic benefits on the revenue side of things, i.e. more revenue-focused services as well.

Richard Macfarlane: Perhaps the major changes in the area focus on social enterprise as a delivery route for it. On the whole, many local authorities with substantial teams of officers and so forth have already been doing it and are doing it already. The big gain from the Public Services (Social Value) Act would be if other Ministries and other parts of Government started to do what local authorities actually have a long track record of doing, but it has never transferred outside of that to non-local authority contracts, except perhaps to Crossrail, a few transport projects in London and one or two hospital projects around the country.

There is some impact, but there is also a downside. By leaving out works contracts, where most of the activity has been out of the Public Services (Social Value) Act, you are actually sending a message. People are saying, “Hang on a minute. We have been doing works projects, but we are not expected to do that now.” By leaving works projects out of the mix and focusing on services, there is the potential for some negative messages to go out about the works side, which has been very important.

Oliver Henman: Not enough has been done with it so far over a year. The Public Services (Social Value) Act is a very useful tool, and it could be better used by local authorities. As I said before around procurement officials, the feeling we get from members is that there is still a tendency to focus on the lowest price in procurement exercises and not look at the wider social and environment wellbeing indicators.

One example is a London charity that lost its contract delivering home care and end-of-life care for a local authority because the contractor price/quality weightings shifted from being 50/50 to being 70/30 in favour of lowest price. They could not compete with other private care providers. There is a risk that procurement officials are still looking for the lowest-cost option. As I said at the beginning, it reflects the wider economic environment. There is something to be said for showing that this does have a long-term economic benefit and that it will save money and lead to more efficient services over the long term.

Q338 Simon Danczuk: Oliver, your organisation suggests that the Public Services (Social Value) Act be amended to apply to any level of contract; is that right?

Oliver Henman: That was a particular point we were seeking clarification on. Our understanding is the Public Services (Social Value) Act only applies above the EU procurement thresholds, which are €200,000 and are going up to €750,000 in the new procurement rules, which would take most of the contracts that reach the voluntary sector out of the scope of the Public Services (Social Value) Act. We felt that there was perhaps a contradiction there, because the spirit of the Public Services (Social Value) Act should apply, ideally, across the piece, even for those smaller community-based projects that many of our organisations are delivering.

Q339 Simon Danczuk: You think it should apply to every service contract.

Oliver Henman: It would make sense for the spirit of it to apply across the board, yes.

Q340 Simon Danczuk: Do you not think that is a lot of bureaucracy?

Oliver Henman: The ideal way for it being applied—it is a conversation we have had previously—is around ensuring that the spirit of wider impact is taken on board. It does not necessarily require a huge amount of additional work in those contracts; it does not necessarily require a huge amount of additional questions in the contract. It is about embedding that into the core part of the contract so that this becomes the normal way of evaluating any contract: you look at price, but you also look at the social impact, and that does generate a saving.

An example might be an employment-related service, which could actually lead to savings on youth-crime budgets or healthcare budgets. It does actually generate a saving, but it may come beyond the scope of that particular project. It is identifying ways that you can quantify those savings.

Q341 Simon Danczuk: Some might argue that you are arguing against lowest-price contract, but why not have a laissez-faire approach and let local authorities get the service delivered as cheaply as

possible? Some would argue there is a premium attached to trying to root out social value within the contract and the local authority has to pay more to get more out of the contract. Why not let them go for the cheapest price and then use the savings they make to buy additional services? What is wrong with that argument, Richard?

Richard Macfarlane: If you specify your social benefit as part of the contract requirements—i.e. it goes into the specification—the cheapest price always has to be for the delivery of that whole specification, so you do not separate out the cost of the social value. To deliver the contract without the social value would not be meeting the contract objectives, if you follow the idea that you are including social value as part of the contract requirements. However, the evidence from the big body of works contracts has been that these are being delivered without additional cost.

For example, the Glasgow Housing Association have delivered £2.3 billion of works contracts in quite intricate housing regeneration with occupied homes—it is quite difficult stuff—and Savills have been doing annual evaluations of their cost outturns. They have delivered 60,000 person-weeks of work for apprentices and trainees at or below the market cost for doing the sort of work they have been doing; that has been independently assessed.

The key thing there is that it depends a bit on what the social-value requirement is. For training and employment, there is obviously other employment funding out there that contractors or clients can access. They can offset any additional costs by pulling in money from the Work Programme or Construction Skills grants and so forth. There may be other types of social value: for example, requiring contractors to seek out local suppliers. They do not have to give them contracts, but going through the route of, say, going to Find-It-In-Birmingham, which is a database of Birmingham firms, and saying, “You must go and find this in Birmingham”, can actually reduce the contractor’s cost, because they find local suppliers instead of bringing them down the road from Leeds or somewhere.

It depends a lot on what it is you are specifying, what other resources are out there and what the cost impact of that is. There is evidence from works contracts on that, but not really from services.

Q342 Simon Danczuk: Matthew, you were saying there were some good examples in Manchester City Council. If it is such good practice, why are the other nine councils in Greater Manchester not doing the same thing?

Matthew Jackson: It relates to the previous question. A lot of it is about measurement of impact of things like social value. We do not have a standardised approach across local authorities for measuring wider economic, social and environmental impacts. At the moment, the case will be that a service will go out to contract; an organisation will start delivering that activity, but there is no real mechanism or means of highlighting the impact of, say, an apprenticeship scheme and what impact it has on addressing issues like unemployment within a particular locality. There is no formal contract monitoring process or continuous engagement with the supply chain, beyond the delivery of that particular service.

It is something that my organisation has been working on in terms of trying to develop things like outcomes frameworks or common sets of indicators, against which the performance of the supply chain can be monitored beyond the delivery of that service.

Oliver Henman: I would add to what has been said. It is about generating efficiencies across the piece. We are not arguing that there should be more costly contracts; there are savings to be had across different budget lines.

For example, there is an organisation called Blue Sky Development and they work to employ ex-offenders in maintenance and recycling contracts. You can actually quantify the saving for each of those people not reoffending, because we have calculated the cost of those prison places to be £41,000 per year. If those people are in meaningful employment, they are generating income and contributing to their society. There is a direct saving to the public purse; it is just across a number of budget lines.

Q343 John Pugh: Could I follow through on that example? It is possible, in a procurement exercise, to specify various things; it is impossible to specify others. You cannot specify local, but you can specify fresh, sustainable or something like that. In the case of prisoners, there is obviously added social value in dealing with ex-offenders in that particular way. It is not a condition that you could write in to a contract, though, is it?

Oliver Henman: The understanding we have is about how to develop good practice amongst contractors so that they are looking for those kinds of wider impacts. It comes back to the point about measurement and ensuring that when you go out to contract you can look at a wide range of different impacts, above and beyond the specific impact of the cost of that service.

Q344 John Pugh: Would it be possible to devise a contract where legitimately, under EU procurement rules, you would favour a contract that, say, did employ ex-offenders, even though it might be slightly more expensive than one that did not?

Oliver Henman: My understanding is that you would be able to favour social impact. You would not specify that it had to be ex-offenders; you would not specify that it had to be a particular number of people; however, you could specify a social impact.

It is up to the provider to come up with a model that does actually make those savings. Providers would look at across the piece. It may be ex-offenders in this case; in another case it could be young people or other target groups.

Q345 John Pugh: Obviously, you looked at a whole range of procurement up and down the country. Have you come across many instances of things going badly awry, where the contract is awarded and it is a blatant breach of EU procurement rules? Can you think of examples?

Richard Macfarlane: Local authority legal officers and procurement officers are very careful.

John Pugh: That is what I was getting at. If people were working at the margins or not risk averse, you would get that.

Richard Macfarlane: People are out there being very cautious about this and they have to be convinced that there is a legal way of doing it. You have mentioned that you cannot mention local. You have to unpick that decision, going back to 1988. The EU procurement rules are in favour of social value in contracts. What you have to do is specify it in a way that means a contractor from anywhere across Europe has an equal chance of bidding. The way they typically do that around training and employment—this could relate to the ex-offenders issue—is to say, “You must recruit eight ex-offenders from this agency”. That is something that a contractor from Poland, Durham or London can do.

If there is a tendency to disadvantage non-local contractors in that, you have to provide a source for those people. You might say, “You can recruit eight ex-offenders from this agency in Brixton.” That levels the playing field. Bidders from anywhere in Europe can go to that agency; the service is open to all of them; they know what they have to do; they can price that if they want to. That

does not contravene, in my knowledge and experience, the EC procurement directives, because you have kept a level playing field.

Q346 John Pugh: Taking a broad-brush view, do you think the general effect of EU procurement regulations has been to act as a kind of deadener or does it incentivise councils to do things more variably?

Richard Macfarlane: There is a fear factor around it, particularly around the risk of challenge afterwards. You have to achieve quite a strong threshold of commitment and understanding before councils and their legal advisers are going to do this.

Q347 John Pugh: Let us quickly touch on the legal advisers. Legal advisors, particularly on councils, in my experience, are generally cautious and trained a good while ago. Do you think they are up to speed with revisions to EU regulations, or do you think they are trapped in the past?

Oliver Henman: That is a very good point. It is about one of the things I mentioned before around awareness-raising and training for procurement officials and legal advisers. They often will think that the full scope of EU procurement rules applies in any contract, whereas, as you allude to, there are exceptions and thresholds under which you can be more flexible. That flexibility is not always used when it could be.

Matthew Jackson: It goes back to the culture of local government procurement officers. We effectively have two types of local government procurement people: those that are focused on transparency, compliance and risk management, and those that are focused on those three things, but, also, on the wider benefit that procurement can bring for a place, in terms of economic and social issues.

John Pugh: The ideal person has both features.

Matthew Jackson: Yes. On the question around training and skills development, procurement officers are taught a very particular trade around value for money, in its broadest sense, and price when it comes to procurement. If we are going to achieve wider social value through the procurement process, what we need is a more balanced set of skills within procurement teams, which reflects both that compliance with EU regulations but also the wider benefits that that process can bring.

Q348 Heather Wheeler: I am interested in whether you can give us some examples of where councils' procurement systems and the culture of councils support local economies. The first question is this: do you think they do? If they do, could you give any examples where they are particularly loading social value into contracts? It would be very useful for the Committee to hear some specific examples that you have.

Matthew Jackson: It is dependent on the localities, to be honest. We have undertaken research with particular local authorities to try to understand where their spend is going and what impact it is having upon local economies, both at an individual level and also across 177 local authorities across the country. Through that research, what we have found is that, on average, local authorities will spend around 31% of their procurement spend with local businesses.

We have undertaken more specific and more individual bits of work, particularly with Manchester City Council. We looked at their spend in 2008-09 to try to understand where £357 million of procurement money went. We found that 51.5% of that spend was within the Manchester local-authority boundary, and the supply chain re-spent 25p in every pound they

received back in the Manchester economy. What they have tried to do in Manchester is up the levels of local expenditure and influence the behaviour of the supply chain when it comes to wider benefits.

Over the last three or four years, we have done a range of pieces of work with them. We have set up things like cross-departmental working groups where the priorities of different Departments across the authority are fed into the procurement process. We have set up suppliers' networks, where we are trying organically to influence the behaviour of the supply chain, to think about the priorities of the authority. We have undertaken a range of work in areas of deprivation within the city, again with a focus on influencing the behaviour of the supply chain.

A good example of that is in Ardwick, which is one of the most deprived neighbourhoods in the city, where there is £43 million of public investment from the local authority going directly into that community. What we have tried to do is get suppliers based in that locality to think differently about how they procure and recruit, and about wider environmental concerns as well. The upshot of that work is that we have seen local expenditure increase from 51.5% in 2008–09 to around about 63% in 2012–13.

There is an impact there not only in networks and engagement activity with the supply chain, but also in terms of some of the wider engagement work the City Council have done in terms of simplifying some of the bureaucracy associated with pre-qualification questionnaires and in terms of developing particular portals.

For me, the starting point for any procurement exercise is understanding impact and understanding where your spend goes at the moment, as a local authority, with a view to implementing a range of strategic activities to enhance local spend.

Oliver Henman: I have a concrete example for you. Within the voluntary sector, as you know, many organisations do operate at the local level and do engage very much in local spending and creating local employment. They will work to attract new resources into an area from foundations and individual volunteers, and build social capital. In fact, 75% of our members indicate that they consider their area of benefit to be local, whatever exactly that “local area” might mean. The expenditure of all of those local organisations is about £25 billion in total, if you were to join them together.

The concrete example, to come to that, is one in York City Council called Café West. Prior to the tender, the local council engaged voluntary organisations to look at what would be the best way to work with local people. They then went out to a tender that works directly with people with disabilities and therefore creates employment pathways for those people. It uses local produce, so it supports the local economy; it invests in local suppliers and builds a wider local partnership through the actual space. The council then offered a six-month rent-free contract at the start, and it was won by United Response, which is a voluntary-sector provider. It was a good example of that whole chain being locally driven.

Richard Macfarlane: Could I give you an example from Birmingham City Council, from about two and a half years ago? They adopted a procurement policy for jobs and skills, which was a mandatory policy across the whole of the council, for everything it procured. There were thresholds for the different sorts of services where that had to be applied. They changed the ethos from the employability team trying to persuade individual procurement teams they should include employment and training to those teams having an obligation and coming, therefore, to the training team and saying, “We have an obligation to do it; how do we do it? What do we do?”

On the back of that, they now have procurement and legal officers who are skilled and experienced at putting clauses into contracts.

It is going beyond new things. You will have heard that the Library of Birmingham had 360 trainee and apprenticeship jobs for people from Birmingham. It has spread to Network Rail's New Street Station contracts. They are now doing it across all their contracts. It has gone into the 25-year roads maintenance contract. It is in the Constructing West Midlands Framework contract. They are talking about it with social services with the Green New Deal contracts.

It is spreading out into services and way beyond construction. It is a market leader in taking across the council's approach and saying, "Do this. If you do not want to do it, you have to make the argument why not." That comes back to leadership and policy; it came from the leader of the council saying, "We are going to do this." The first thing they did was set up a clear procurement policy, then get all of the procurement teams around the council in for training to understand that. That continues to work today. There are other examples, but that is a prime one.

Q349 John Stevenson: Richard, you started to touch on the next issue, which is skills and expertise, which, quite clearly, are significant matters for councils, council officers and, indeed, councillors. Can I start with Matthew? Do you think councils up and down the country actually have the staff with the abilities to deal with the complex world of modern-day procurement?

Matthew Jackson: It goes back to the point I started to touch on before. In terms of considerations around value for money and cost in its broadest senses, yes, the skills are there, but when it comes to wider benefit through procurement—i.e. the social-value issues we are talking about here today—the skills are not necessarily there. Two things need to happen to enable better skills within procurement teams. One is to recognise that procurement is a cycle. It goes from the commission stage and the design of services through to procurement strategy, pre-procurement and delivery of the service. The social-value considerations need to come in a lot earlier. It is predominantly the role of the commissioners and the service designers to build in those social-value considerations.

The second thing is that procurement needs to become a much more cross-departmental activity. We need economic intelligence from economic development and regeneration people feeding into the mindset and culture of procurement officers as well.

There is a need to re-stratify and realign the role of the procurement officer away from simply making a decision on the basis of cost and value for money, but also to be considerate of the wider economic and social challenges that a locality may face.

Q350 John Stevenson: On balance, you would say it is working in parts, but not in other parts.

Matthew Jackson: Yes.

Q351 John Stevenson: Richard, you mentioned one council that clearly does seem to be addressing the issue, but I am looking across the board. What would be your impression?

Richard Macfarlane: My experience now, compared to 30 years ago, is that procurement officers are open to this, but they do not know how to do it. The first thing—a bit like we went through with John—is you have to present the argument to them in a logical way that overcomes their fears and concerns about European rules and so forth. You have to explain how to fit it in, and I have found them positive.

The second thing is that they need to network with new people. For example, around the routine procurement of care services, contract services or cleaning services, they work with officers that know about cleaning, construction or whatever it is. Whatever social value you are looking at—it might be training; it might be small firms; it could be some other social value—they need to work with colleagues they have not worked with before.

Q352 John Stevenson: Are you suggesting collaborating with other authorities?

Richard Macfarlane: That could be one way of doing it. The danger of jointly purchasing is that contracts get bigger and bigger, and that becomes more difficult in another way for SMEs and small firms that traditionally provided services to bid. Leaving that aside, yes, learning from others is quite important, as is the movement of procurement officers between authorities, carrying knowledge and experience with them.

What I particularly had in mind was that a procurement officer needs to work with somebody who understands what the social-value requirement is. If that were, say, support for social enterprises, they would need to work with social-enterprise officers within the council or an external agency to understand what could go in the specification, what support there is out there to help contractors deliver it and how you would measure that. It is those practical, technical things around how you specify what you are trying to achieve in order to put it in the contract.

As Simon was saying, just let the thing roll. Any contractor winning the contract has to deliver those outcomes.

Q353 John Stevenson: On that same subject, I would be interested in your response. However, going a little bit further, is there actual room for councils to second people from either the voluntary sector, or indeed the private sector, to come in and help build up that skill base?

Oliver Henman: That is a good suggestion; it is certainly something we have been promoting as an idea. There could be external recruitment or secondment, as you rightly say, in terms of bringing in that external expertise, and, beyond that, just having regular dialogue with the voluntary sector, social enterprises and other local stakeholders, so that the dialogue is a more natural one before a procurement exercise even takes place, to ensure that procurement officials understand the way those service-deliverers are thinking and the kinds of challenges they might be facing. They can then structure the procurement in a way that actually suits and reflects the local need much better.

We very much agree with the idea of external recruitment and training for those existing commissioners. The Cabinet Office already runs the Commissioning Academy and we would like to see that expanded. Perhaps it is something that could be done on a network basis in terms of a peer-learning exchange between officials, but we would certainly be interested to see what could be possible.

Q354 Chair: Are you referring to a point of reference to which procurement officers who are not quite certain whether they are doing things in the right way, or who want to innovate and are not quite clear on the boundaries, could go for particular advice and that sort of thing?

Oliver Henman: Absolutely, yes. As we know, people's way of interacting has changed. People look online; they look on Twitter; they look on Facebook. If there were ways that people could exchange good practice in a more informal way, it would certainly help, yes. If there were a way that could be through trusted networks of others who have been through the same sorts of issues, yes, that would help.

Q355 Mark Pawsey: I wonder if I might ask you about the transparency of the social-value objectives in the role of procurement. Normally, in procurement, if you are a supplier and you provide the right goods or service at the right time at the right price, you are successful in picking up a particular contract, but you are introducing new ideas that many suppliers may be less familiar with. How can we make certain there is transparency at the outset in the letting of the contracts, so that a supplier who does provide the best price and who is not successful in a contract understands why that is? I speak as somebody who ran a small business; if I came to an authority and gave the best deal but was not successful, I would struggle to understand why. How can we make it all transparent?

Oliver Henman: We very much believe that transparency is important and actually improves performance over time. Certainly, the opportunity to understand what kinds of contracts are being let will help in the future for others to understand what they might bid for, what they might be scored against and so on. It is important to have that transparency, both in terms of the initial procurement and the ongoing information about how many contracts are going to the voluntary sector.

Q356 Mark Pawsey: Where a social-value objective is sought within a contract, are authorities letting those contracts in a sufficiently upfront and open way? Potential suppliers must have enough information to understand, “You may come in at the best price, but you may not necessary get it.” Do suppliers understand that?

Matthew Jackson: What we need here is a process of early engagement and market testing of particular opportunities. There are lots of services that could have social value attached to them, such as mental health or adult social-care services. The key is to have early engagement at the commissioning stage, during the design of that service, with voluntary and community-sector organisations and the small-business sector to highlight exactly what the local authority is seeking from that particular service and to engage a voluntary-sector organisation in the design of that service. It is really important to have that early engagement before we actually get to a formal tender process, to enable that transparency.

Q357 Mark Pawsey: How about the transparency with the successful contractors? Once the contract is let, does that process check up sufficiently that these social-value objectives are being achieved? It could easily be the case that somebody comes in with a higher price and nobody monitors the social-value bit. Other potential contractors might feel pretty left out.

Matthew Jackson: This is the point I was making earlier. You often get to the award of a contract and the supplier will go away and deliver that service for three years. They may well be delivering a good service, but you have no means of monitoring the wider benefit that service is bringing in economic, social and environmental terms, which is why there is a need for a standardised set of indicators or means of monitoring the impact of provision, beyond the actual delivery of the service.

Oliver Henman: There are a number of tools that exist to do precisely that: to measure the performance against social indicators. Social Return on Investment is one that is quite widely used, but there are other measurements that different bodies have come up with. It would certainly make sense and it is absolutely right that there should be regular evaluation and that it should also be published, so that people can see that the wider social impact is being achieved.

One of the things we also promote—you may know about it—is the use of the compact, which is an agreement that exists between the voluntary sector and the Government that highlights some

of those ways of measuring and ensuring that you get the ongoing dialogue and monitoring through the life of the contract.

Richard Macfarlane: The simple answer is that you simply follow good procurement practice. At the beginning, Matthew referred to starting the contract with, “These are our objectives”. If you put the social-value bit at the beginning of the tender, it is not actually clear what you want the contractor to do. It is much better to say, “These are our objectives. This is what you have to deliver: this, this, this and this.” You then have some measurables.

Q358 Mark Pawsey: Is it your view that potential suppliers understand those objectives? Do they buy in to those objectives?

Richard Macfarlane: Initially, what you are doing is changing the market. You are tweaking the market not just to provide a service, but now provide a service and provide some social value, and this is the social value. Initially, contractors will not know that. Some will; some will not. Some are very good. If you take the construction sector, where this has been happening widely—for example in Birmingham, the West of Scotland or South Wales—most contractors will have met many tenders with employment and training requirements or supply-chain requirements in them. They are used to dealing with that and they know how to respond. They virtually expect to see it and they have mechanisms set up for doing it. That is not to say that all contractors do that. The importance of having an agency they should work with to help deliver the outcomes will help those who are not used to doing it to do it.

Q359 Mark Pawsey: How capable do you think small businesses are of achieving those objectives?

Richard Macfarlane: They are more capable than they think they are. Coming back to construction, where most of this has happened, most traineeships and apprenticeships happen in small firms. From the construction-skills point of view, that is where most of the opportunities are. They have a capability; they know the systems and so forth. It is actually the big boys who do not do any of that, because they are just managing the whole contract. They are more capable, but they are very loud in saying, “We should not be expected to do this”.

Councillors—and yourselves, I would imagine—get quite a lot of flak about, “This is not right; we should not be expected to do this. We should be able to employ who we want.” Truthfully, if you set it out in the tender, “This is what we are now buying”, and it goes in the OJEU notice and the contract notice, you give a score for how much weighting that issue is going to have in the award of the contract as part of the quality, and then you monitor it.

One of the things on monitoring is that, if you have Social Return on Investment or Local Multiplier and other things, it requires an awful lot of data and an awful lot of time to analyse. It is not realistic to do those across all contracts. What you can do is put in measures. If you take on five apprentices, you need to be able to monitor that simple requirement. Who are they? Where are they? Can I meet them? Can I see them? How many weeks do they have? You can devise mechanisms. That is where people working in the sector can help you devise the appropriate mechanisms. However, you have to stick to the normal processes.

Matthew Jackson: It is important to have an ongoing understanding and relationship with your supply chain to enable these social-value considerations to come to the fore. One of the key things that we have done around procurement is to try to understand local business bases and exactly the types of goods and services that small businesses and voluntary and community-sector organisations can provide for a local authority. There is a two-way relationship here, in

that local authorities need to understand more effectively who is based in their local economy and what types of service they can provide.

Also, however, organisations from the voluntary and community sector need to understand more effectively what local government actually procures and what types of services they can actually deliver, which is a key balance to be met as well.

Q360 Chair: I was going to ask the question of the NCVO as well. Reply to the point you want to make, as well. You mentioned in your evidence that, for some very low-value contracts, it might be better to go back to the old way of doing things and give an organisation a grant and let them get on with it, monitoring that over the course of a year. Do we have some examples now where, perhaps, initiative has been squeezed out of smaller organisations? It was Supporting People where organisations came forward and did not really say, “We can deliver this service”, but said, “This is a new service that we think would be appropriate; this is how we can deliver it; can you give us a grant towards it?” Are we in danger of squeezing that sort of initiative out by putting everything out to competitive tender?

Oliver Henman: I have two points. On that specific question, the area we were looking at is the potential higher cost of managing, overseeing and monitoring the contract. As you say, if it is a relatively low-value contract, in some cases the economics of it do not stack up. You end up spending more time and it taking more investment from the council to actually do the monitoring of the contract than it would have cost if it were simply a grant. That was why we said, in some cases, some of the smaller projects would benefit from a grant instead.

There are cases where that can happen. However, we do still think the point of monitoring effectiveness is absolutely crucial, and we would never advocate for not demonstrating that impact. Many of our organisations do that sort of impact assessment in their day-to-day work anyway, whether or not they are procured or receiving funding from a local authority. We would certainly continue to advocate for strong impact measurement. I agree with the point Matthew made earlier about impact measurement and the different models for impact measurement.

I was going to add something to the previous question, which ties this together. If you need to train up the procurement officials on one side, there may also be a need for training for some of those suppliers to understand the new types of commissioning priorities that are being looked for. One of the things that would be interesting is to see whether you could, as part of that ongoing dialogue both before and during a contract, actually run sessions where the local stakeholders and procurement officials are able to discuss informally some of the key areas they may have, and some of the needs they may be looking to address within that area.

Q361 James Morris: I have one specific question about the community right to challenge, which is relevant to what you were just saying. To what extent are the existing procurement and commissioning processes that we have providing a disincentive to local voluntary—sector organisations for actually taking up the right to challenge? Is that your experience?

Oliver Henman: That is an interesting question. It certainly has not been as widely used as many people expected, yes. We have some evidence to show that only 22 rights to challenge were formally launched.

James Morris: Is that 22 across the country?

Oliver Henman: Yes. Across the country, only 22 have been through the process formally. Of those, nine were rejected and two were accepted. It does seem to indicate, as you say, that there

is some limit to the ability to use that challenge, and that some councils are not feeling there is any obligation on them to respond to that challenge, because it does not necessarily fit within the standard procurement process.

However, there is some evidence—it is harder to quantify—from members to say that the ability to refer to the right to challenge allows them to begin a conversation with the council that they would not otherwise have been able to begin. Although we have only seen 22 actual formal processes, it may be the case that in other cases people are raising particular needs and the councils are responding less formally, rather than going through a full right to challenge. The evidence we have is that the right to challenge is sometimes seen as creating unnecessary confrontation. Actually, if things can be resolved less formally, sometimes they can be. Sometimes the particular need a community organisation has identified can be picked up in other ways. It is harder to quantify that, but we would certainly like to see more use of that opportunity for organisations to take on local services.

Matthew Jackson: From a local government perspective, local authorities are actively seeking to avoid going to challenge through trying to understand their market more effectively when it comes to the voluntary and community sector. They are implementing better engagement activities with the voluntary and community sector within their locality to avoid going through that exact challenge process.

One of the other challenges with the challenge is that it opens up the market a little bit. If you are highlighting that you want to deliver a library service, for example, you are opening yourself up to a full tender exercise that often involves large private-sector organisations engaging in that process. You will not necessarily have any winners, if you like, in the voluntary and community sector by challenging the provision of those services. It is more effective to have a relationship between the local-authority commissioning people and the voluntary and community sector in place to enable better outcomes.

Chair: Thank you all very much for coming and giving evidence this afternoon. It is appreciated. Thank you.

Panel Two: Questions 362–385

Examination of Witnesses

Witnesses: **Martin McTague**, Chairman, Local Government Policy Unit, Federation of Small Businesses, **Alun Rafique**, Director, Market Dojo, and **Dr Pedro Telles**, University of Bangor, gave evidence.

Q362 Chair: Thank you all for coming to give evidence to us as our second panel. Just for our records, could you indicate your name and the organisation that you represent?

Martin McTague: I am Martin McTague, from the Federation of Small Businesses.

Alun Rafique: I am Alun Rafique; I am a Director from Market Dojo.

Dr Telles: I am Dr Pedro Telles; I am a lecturer at Bangor University.

Q363 Chair: Thank you for coming. Could I just begin with a subject where we have perhaps had slightly different points of view expressed by yourselves and your organisations? It is about councils

trying to achieve greater opportunities for SMEs and microbusinesses to obtain contracts, and the extent to which there is a potential conflict between that and the council getting the best value for money from its contracts.

Martin McTague: We did an extensive research exercise amongst our members and what that demonstrated was that there was a 58% improvement in what you could call the stickability—in other words, the amount of the value of a contract that stayed within community where the contract was let. There was real evidence that it produced value in that community, inasmuch as there was better social cohesion, small businesses took on a wider range of employees and there was clearly a growth in the local economy, because of the added value that was retained.

Alun Rafique: Market Dojo is an SME, but we also supply e-sourcing systems. We received a grant from the Technology Strategy Board to help develop our tool to assist local government in the adoption of e-sourcing from a buyer and a supplier side and encourage innovation. In fact, we see both sides of the coin, as it were.

In terms of applying for contracts, as an SME we see that there are some councils with which we are involved, such as Bedford Council or Shropshire Council, who have used an appropriate level of competition for the tender we have been applying for. Other councils—for example, Mole Valley Council or Worcester County Council—have used a very onerous procedure for low-value tenders. As an SME, it can really put you off applying for these tenders and take up a lot of time and money.

To give you an example, at Worcester County Council, their tender was broken up into a questionnaire that was very onerous and the scoring seemed to be more aimed at, for example, support organisations. One of the questions was, “How big is your support organisation?” rather than, “Is it appropriate for the size of the tender that you are bidding for?” The price-scoring mechanisms were incorrectly named and non-linear, which can create issues for a buyer, when they are setting up the tender, to understand how a scoring mechanism is going to react and, from the supplier side, to understand what is going to happen when you apply for a tender. They were also not able to take account of innovation during the tender procedure, which is where you can create real value for local councils.

Unfortunately, we have seen a lot of councils going through a very onerous procedure for tendering and some councils use a very appropriate procedure. With regards to the question, sometimes SMEs can be put off and sometimes they are engaged with. It seems to be very much a lottery to see what is actually going to happen in the long run. Ultimately, these kinds of onerous procedures can put SMEs off tendering; they can take up a lot of time and money; and they can actually put some SMEs out of business. You also get issues with aggregation of requirements and framework agreements, which can also remove SMEs from tendering for these kinds of opportunities. I know we are going to discuss some of that later.

From our side, we have very much seen a mixture in terms of whether they encourage SMEs. Certainly, a lot of the time they do not really know how to take account of innovation in the process. SMEs are the reason why a lot of large companies fail and yet local government procurement does not take account of this very well in the process.

We developed an innovation portal as part of our tool to help local councils bring innovation into the council. We had a lot of discussion with Bristol Council around this, because we are part of Bristol, and there was a big push to involve local suppliers there. Unfortunately, however, it has just ended up being discussions and has not gone anywhere. We have had a really mixed view.

Dr Telles: For my background, I would say that, more than creating opportunities specifically for SMEs or micro-companies, the important bit is to find new procedures and new ways to award contracts, which solve the problems you have highlighted very well and are more attuned to the needs of low-value contracts. Taking on board your comments, what you faced was something that is very common, whereby the contracting authority took a procedure that had been designed for very expensive contracts above the EU thresholds and decided to apply it to a low-value contract. When that happens, obviously SMEs are going to be more disadvantaged, because the opportunity and transaction costs are felt more highly by SMEs.

Before we start discussing whether we should do it like the Americans do, which is to reserve certain contracts for minorities or for SMEs, or whether we should have a specific regime that favours SMEs in public procurement, there is still a lot that could and should be done at the procedural level and the requirements that are set for low-value contracts.

Q364 Chair: You have gone on to argue that some authorities are really doing no more than engaging protectionist policies under the guise of helping local economies and that, if all authorities do this, there is no overall benefit but probably an extra cost, in that you are not getting the best-value contractors bidding for work.

Dr Telles: I was surprised when I came to the UK. I used to be a lawyer in Portugal and Spain and I worked a lot in public procurement. Especially in Spain, I was used to the regionalism. I used to be a lawyer in Barcelona and the Catalans would say, "We want to keep Catalan money in Catalonia. We do not want to have companies from Madrid winning our business." I was expecting that, but, when I came here to the UK, I found out that this was happening not only at the regional level, but it was also happening at the county and local level.

In the long run, when you look at what is happening now with the budget cuts in local authorities, if we start imposing barriers, whereby every single local contracting authority starts to favour, in one way or another, their local supplier base, what will happen is that no-one is going to grow, because even if they get 100% of that local pie, two years or five years down the line the local pie is going to shrink and they will not be able to win business elsewhere. Good companies will not be able to grow. In my view, that is a recipe for disaster. That is what I wanted to highlight in my submission.

Martin McTague: I would fundamentally disagree with that. What we are seeing is that councils, at the same time, will be spending money on procurement. They could take a low-cost view; they could take the view that they are going to drive down costs by maybe increasing lot sizes and aggregating, but it is counterproductive. At the same time, they are trying to spend on economic development in the same areas. The effect of driving down the price and disadvantaging small businesses in their own area is only depressing growth within their own area, as well, which they then have to counteract by spending more money. It is perfectly rational not to advantage small businesses, but to take away unnecessary barriers.

There were four fairly simple recommendations that came out of our own research. You simplify the PQQ process and make it much more straightforward and standardised. You break down major contracts into lots. You have to go out there and try to engage with the small-business community. We found that something like 70% of small businesses were not interested in engaging with local councils. In fact, it was easier to get them to export than to get them to trade with their local councils. You have to go out and actively engage with them. The final thing, which is a big incentive, is you say, "If you are going to get paid quickly, pass that on." Many councils do pay very quickly to their tier-one, prime contractors. With Wakefield, we saw that it was very

easy to include a contract term that meant they had to pass on those quite swift payment terms to their tier-two and tier-three suppliers. That has a dramatic effect on take-up within the community.

Q365 Mrs Glendon: How does collaboration by councils across geographical areas impact on the ability of small organisations to do business with those councils?

Alun Rafique: From our experience, it has not been excellent. For example, we are involved with an ESPO tender where they aggregated the requirements for several local councils. They were actually looking for e-procurement systems. They aggregated the requirements and they broke them down into the systems they were looking for: e-auctions, e-tendering, etc. There were five different requirements. As a provider of these systems, we thought we could really help local government procurement. We had some great success with Bedford County Council, where they had existing sourcing systems that were difficult to adopt and we added value. They used our system for a month and saved a great deal of revenue.

We thought we were perfect for this framework agreement. They had broken it down into various areas. However, in the same tender documentation they then said, "If you are going to apply for this, we actually want to reduce the number of suppliers who can apply for it, and we want to make sure that any supplier who applies for this aggregates these things together." The knock-on effect of that is that the only suppliers who can then apply for that tender are the largest suppliers. Since it was also a framework agreement to supply procurement systems to local councils, it would just exacerbate the problem and proliferate the issue with local councils using the same procurement systems, which are slightly cumbersome to use and may make it more onerous for SMEs to take part. That was an example of where they had aggregated and it had put SMEs off tendering, because they simply could not.

We have also seen other examples such as a West Sussex open day, where they were asking suppliers for advice on their procurement systems, and also the London Procurement Partnership. However, the result of that was they came up with a tender documentation saying, "You need to provide all of this", instead of breaking it down into constituent parts, again eliminating the ability for an SME to take part.

On these collaborations, it is also worth mentioning that you have things like G-Cloud and the Dynamic eMarketplace, which are essentially framework agreements. They are very good ideas, and you can be part of these. We have been part of it, and it takes time and effort to be part of it. However, we have not had opportunities come from it. You can further add that each local council has a different portal for its own procurement. You try to be a part of each of these, because it is important. In the end, the question to you would be, "How many framework agreements and portals does a company need to be a part of for the same requirement to be able to get business?" It takes a lot of time and money to manage these kinds of things.

All in all, we have not seen the framework and collaboration side of things as being that beneficial, unfortunately. G-Cloud and the Dynamic eMarketplace are a step in the right direction, but you need a bit more common sense applied to that. The SMEs can offer a lot of innovation, which is really important.

Dr Telles: Building upon that, if you look at collaboration by itself it means, as you are probably implying, you are going to have less contracts available and the contracts are going to be bigger. The bigger a contract is, the more difficult it is for an SME or a micro-company to win that business. That is clear. That is one way of looking at things.

The other way to look at it is if you have collaboration of councils and a little bit more centralisation, you are going to have procurers who are going to be more expert. You are going to have people who are going to be more trained and more able to deliver good procurement. If you use that work, especially with the use of e-procurement, and you start to advertise lower-value contracts, which currently are not being advertised across the UK, you open a huge number of opportunities for SMEs to bid directly for those contracts.

For example, look at the data published by the European Commission regarding 2010-11. In the UK, only 25% of contracts are above the EU thresholds. The other 75% have a value that is below the thresholds. Below the threshold, pretty much every contracting authority can do what they want, obviously with the caveat that now Government Departments and Ministries are forced or supposed to advertise contracts above £10,000. Other than that, any other contracting local authority may do what they want. If they pool those resources together and start to advertise those contracts, in the end you may have more contracts altogether being advertised that are more attuned to the needs of SMEs.

Q366 John Stevenson: The skills, expertise and the experience of councils and their council officers clearly matters. How do you rate the ability of councils to deal with small suppliers and small businesses and their capacity?

Martin McTague: What we found was that it was generally pretty good—surprisingly good. There were more examples of good practice than bad. However, there was nobody doing everything they could do. For example, with splitting into lots, only 39% of councils had actively participated in splitting down major contracts into lots, which is quite poor. Spreading that good practice would be relatively easy.

However, the biggest factor we saw—I know other witnesses to the Committee have said the same thing—is this risk aversion, which seems to stifle a lot of what goes on in this area. It is not like these guys do not know what to do. It is that, in this very tense environment of local government at the moment, they are more frightened of losing their job. Sometimes, the responsibility for that situation may fall on members. Members have to say, “We are going to back the officers to be more innovative, to take a few more risks and take the opportunity to engage with small business”, because that will carry a bit more risk, but it carries a lot more benefits.

Q367 John Stevenson: Does your own organisation have a role to play in this?

Martin McTague: Yes, we do.

Q368 John Stevenson: If you could do more, what should you be doing?

Martin McTague: We should be spreading the word and spreading the gospel of good practice around local government. That is our role in this: to be a bit of an evangelist.

Alun Rafique: I generally agree. It seems as though there are a lot of good people out there. There just seems to be some confusion about what processes they should use for the size of the tenders. A lot of the challenges have been because, as you mentioned beforehand, they have taken an OJEU procedure and applied it small-value tenders, which is very expensive for an SME in terms of time and effort to bid for these. Suppliers also fear the repercussions of making the wrong decisions. They try to use belt and braces, and make the process far too complex, which is not good for them, because it takes a long time to take part in this.

In a lot of local government procurement, it does seem as though people are scared to pick up the phone and speak to the suppliers before the process to understand what innovation can be taken with part of the tender to structure it better. In terms of the aggregation, ESPO aggregated the requirements and streamlined the SLAs, which is a great idea, but, in terms of going back out to tender, they should have still made it available to the SMEs and larger companies, because there are a lot of benefits to be had from that.

All in all, the skills are there, but we need a bit more guidance on what is appropriate for the size of the tender so that people feel confident about running a tender that way, without the risk of something going wrong.

Q369 John Stevenson: Would secondment from the private or voluntary sector into councils help that, or is it an internal matter for councils?

Alun Rafique: It would definitely help to an extent, as long as the people who are seconded in have the guidance on what they are allowed to do within the public sector.

Dr Telles: When it comes to skills and expertise, there is a huge range of people and skills. One of the biggest problems with procurement is that procurement is something people fall into, especially in local government. It is a function; it is not a profession that you take from the start of your career and you do it for your entire career, as it is in the private sector. In the public sector, the people I talk to, both at the corporate level in local government and also below it, are people who, one way or another, got into that function for whatever reason in their careers.

Regarding the skills themselves, there are at least two reports from John McClelland—one on Scotland from 2006 or 2007 and another on Wales from last year—that clearly highlight the lack of skills in local authorities when it comes down to procurement. In my view, the biggest problem is that we have too many people doing procurement. You should have less people responsible for bigger chunks of the budget in local authorities instead of having very much devolved organisations inside the councils, which allow people at the bottom ranks to make purchasing decisions. That is my take on it.

Regarding risk aversion, I am going to use an American joke: no-one was ever fired for buying from IBM. I can understand why someone in the same position in a council would go with the bigger company instead of a smaller company. I am not saying that I agree, but I can understand. At the end of the day, if you are only promoted on the grounds that you do not make any mistakes and you do not bring the council into disrepute by having bad news about your procurement in the papers, you are obviously going to be risk-averse; that is what is going to happen.

That is for the procurers. In addition to the procurers, you have to bear in mind there are more people involved in the procurement process who are not procurement officers. For example, you have risk managers and risk managers are paid to manage risk. Managing risk means minimising it as much as it can be minimised. Obviously, for a risk manager, what happens to the local supplier base and local SMEs is irrelevant, because they are not promoted on the basis of that metric. They are promoted on the basis of the metric of not creating problems for the council and reducing the risk.

In addition to the risk managers—we have seen this with the work that we have done with local councils in Wales—especially when it comes to insurance, it is actually not the risk manager's responsibility or final decision in the insurance policies that are demanded, especially in low-value contracts. It is actually something that is set by the insurance policies that cover the

council. It is very hard to change that practice, and I do not know exactly where you should start—whether you should start with the procurers or with the other stakeholders who are involved in any way, shape or form with the process.

Q370 John Stevenson: Is there any merit, then, in trying to second from the private sector or the voluntary sector into councils to try to change that culture?

Dr Telles: I have two comments on that. Firstly, I was a lawyer, and I still—

John Stevenson: You are risk-averse, then.

Dr Telles: I am risk-averse in certain circumstances.

John Stevenson: Spoken like a lawyer there.

Dr Telles: Once a lawyer, always a lawyer. It is true. Alun mentioned a good example: councils should talk more with suppliers. To a certain extent, yes, if you are the one picking up the phone, you say, “Yes, I want to be contacted, so I can influence the way that the tenders are designed.” However, imagine that the council does not call you, but it calls one of your competitors, and the tender is designed in a way that suits your competitor and not you. You would be crying foul, because the tender had been skewed in the favour of the person who talked to the council.

Personally, I am very much of the position that we should keep separate what should remain separate, which is the business-development side of things and the procurement functions within the council.

My final answer is that, no, I do not think the secondment of private or voluntary-sector staff in councils would be very positive in the long run.

Q371 James Morris: I was talking to a company in my constituency the other day who were complaining about the local authority procurement process. They had received four identical documents in the course of this tendering process and they calculated that it had reached the point where they had spent so much money on conforming to the requirements that had come out of this particular local authority that it now meant it was not profitable for them to continue with it. How common is it in local government that, because of this risk aversion you were talking about, we end up in a situation where totally valid small and medium-sized businesses make the judgement it is not worth them pursuing a tender because of the onerous compliance requirements that are placed upon them?

Martin McTague: It is very common. It is one of the biggest factors that came out of our research. It is driven by risk aversion. It is driven by the idea that if you stack an enormous PQQ at the beginning of the process you will somehow insulate yourself from risk. There is the opposite reaction of, “You should get rid of PQQs”. However, the tender would then become infinitely more complex and difficult. In the end, it comes back to John’s point earlier: it is about leadership. It is about saying, “We see a bigger picture here—not just shaving a few pennies off the price of your paperclips. We want to show leadership and show some commitment to smaller businesses.”

Alun Rafique: It is also that you should just apply an appropriate level of competition. We find that a lot of tenders these days are very onerous and they do not have to be. It is surprisingly common. You can reduce the tender depending on the size of the opportunity. That is where the public sector needs some guidance in terms of what is acceptable for that.

Dr Telles: One of the things we have done in Bangor is take on exactly that problem and tackle it head on. At Bangor University, we are of the opinion that low-value contracts should be advertised. They should not only be awarded via request for quotes, whereby only two, three or five companies are invited. Everyone should have an opportunity to bid for that contract. What we do not agree is that for a £10,000 or £20,000 contract the level of detail and information required should be identical to that which is required for a £100,000, £200,000 or £2 million contract. It does not make sense.

What we have done is gone back to the drawing board and designed from scratch what we call a simplified open procedure, whereby we are able to award contracts in less than 40 days from start to finish. We eliminated everything that was unnecessary; the selection stage, the PQQ, was gone. Obviously, we require self-declaration, as it is going to be mandatory from 2016, when the new directives come in. We require a self-declaration saying, "Yes, we have the insurance levels. Yes, we have the policies you require."

At the end of the day, what we want to identify is the best bid, not the best bidder. What tends to happen with PQQs, which is why they are so long and drawn-out, is PQQs are used to identify the best bidder, which—unfortunately, because we are all biased—means people are going to look at the bid influenced by the decisions that have been taken at the selection stage and say, "This company was the best bidder; why do they not have the best bid? Perhaps we can skew the results a little bit and change the numbers."

I do not think this has happened in practice, but I know that in Portugal and Spain people who are involved in selecting bidders at the start cannot be involved in selecting the bids at the end and making a final decision. The reason for that is precisely to avoid the bias. I see that every day when I am marking my students' exams. For example, I am not authorised or entitled to know which student's script I have in front of me. I need to evaluate the exam on the merits of what is written and not on the merits of the candidate, who I may know. It is the same thing with procurement. You are supposed to identify and award the contract to the best bid, not the best bidder.

Basically, what we have done at Bangor was to reduce the timescales, remove what was not necessary, simplify the procedure, use e-procurement, obviously, do everything online and, for example, impose word limits, which is a very sensible thing to do. At least this is what we do with the essays of our students.

So far, the pilots we have done in two councils, Carmarthenshire County Council and Gwynedd Council, have been very successful. It can be done. There is nothing in the law to say that it cannot be done.

Q372 Bob Blackman: To follow up, Pedro, during your evidence you said that the individual council officers who select people to bid should not be those making the final decision on who is accepted. Do you also accept the principle that, if you employ a consultant or a set of consultants, they should not be allowed to bid on the contract after they have given advice on setting up a bid process?

Dr Telles: That comes back to the discussion of the problem of who is going to pick up the phone if the local authority makes a phone call to learn how they should draft the tender. There have been some cases, at least over the threshold cases in the European Court of Justice, which seem to imply that unless the technical specifications are skewed in favour of the consultant that drafted them, the consultant should be entitled to take part. The problem is that it is going to be pretty much impossible to prove that. It is one of those tests that the European Court of Justice

has created that, for me, does not make a lot of sense. At the moment, however, it is where things stand.

What would I say if I was advising a council? I would say, "Have them as consultants; do not allow them to bid. Otherwise you may have problems in the future."

Alun Rafique: On the subject of picking up the phone, the flipside of the coin is that no one picks up the phone, you do the same tender you have done for the last 15 times and you end up with the same result and the same suppliers taking the bid.

There is an appropriate level of due diligence you do before a tender. If you are going out and looking at a solution, and you want to see whether you have the right structure, you do not pick up the phone to one supplier; you pick up the phone to 10 suppliers. You go and look at what innovation is out there before structuring your tender, so that when your tender comes in you know you have taken account of innovation, especially if we are talking about the SME market. The SME market is all about innovation. You want to take part in that. If you do not pick up the phone, you are left with a real challenge.

With respect to whether you let them also bid for the tender, it is a very difficult question, and you need to apply some common sense. It would be very difficult to apply hard-and-fast rules about that, because it depends upon the people who have helped to create the tender opportunity.

Q373 Bob Blackman: The problem is someone thinking, "This is already wired to this particular company, because, after all, they have written the specification for the authority and so, naturally, they will write the specification around what products or services they can provide." Maybe other people can provide the same service, but not necessarily. They may skew it to make certain things mandatory that other companies cannot do.

Alun Rafique: There could be several ways around that: do not just involve one consultant from one area, but consultants from different areas or an independent consultant. The person who is managing the process might simply be careful about the way these things are structured. Certainly, that type of process could easily be abused, but, if there is some common sense around the process, it could be mitigated as well, and it is all about risk mitigation. To say, "You are not allowed to bid", to anyone who helps the tender or picks up the phone—

Bob Blackman: Sorry, I am not talking about the people who pick up the phone. If they are employed to provide this, should they then be excluded from a tender process? That is the specific; do you agree or not?

Alun Rafique: I would say that it would depend.

Martin McTague: My view is pretty clear: if they are SMEs, the chances are that they are not going to be in a position to corrupt the process, but I see a lot of very powerful consultancy firms manipulating the playing field for their advantage. I would not have any hesitation in excluding them.

Q374 Mark Pawsey: Can I ask about small businesses who are involved in multiple-contract bids having to complete multiple pre-tender qualifications? Should it not be the case that, if you are accepted by a major authority, it ought to be good enough for lots of subsequent authorities? Is there any evidence of any moves towards that sort of standardisation?

Martin McTague: Yes, there is. There were some worrying moves in the past, where there was commercial businesses that were set up and, for a fee, they would put you through this process and act as gatekeepers. That was really counterproductive and did not work. Government has a role here: Government could provide a central clearing house for pre-qualifications.

Mark Pawsey: Do you mean by means of a charter or something of that nature, whereby a business could say, "We have done this and it was good enough in this instance. Why should it not be good enough again?"

Martin McTague: Yes, there is a lot that could be done that would centralise and simplify that process. You could register for the system on the basis of a relatively small fee.

Q375 Chris Williamson: Both sets of witnesses have set out what a minefield the whole procurement process actually is. You will probably be familiar with the report from the Centre for Economics and Business Research earlier this year, which suggested that the procurement process in the UK is more expensive and takes longer than anywhere else in the European Union. On that basis, I wondered whether or not you think it would be better if central Government provided a mandate for greater centralisation of the procurement process?

Martin McTague: Certainly, as far as PQQs are concerned, that is an area where central Government could get involved. Localism has the capacity to deliver a lot of advantages in individual councils. We do not want to centralise everything, because that plays into the hands of the big organisations. I would favour an approach in which, where there are barriers, central Government plays a role in trying to reduce those barriers.

Payment terms is an area that they could get involved in, as well as PQQs. However, all of the solutions could be developed locally. There is lots of evidence that innovation, good practice and different approaches work all over the country in different ways.

Q376 Chris Williamson: Do you not think there is a role for centralisation at all?

Martin McTague: There is definitely a role in respect of PQQs.

Alun Rafique: It is a really interesting question. If you look at the private sector, for example, in procurement departments, we wrote an article recently on creating e-Cademies within larger organisations, who support the local satellite procurement areas. If you created regional hubs, for example, which would help lots of local councils together, you could have a lot of advantages from that, through standardising without necessarily centralising the procedures.

For example, you could have help with the PQQ responses, offer advice, offer best practice, analyse suppliers who are used across several local councils to understand risk and mitigate that risk. You can aggregate opportunities through these e-Cademies or regional hubs. This is not centralising in one area, but, in particular regions, you could centralise that effort.

However, there is a massive caveat to that. It is exactly the issue you mentioned: it has to have the right mandate, controls and accountability to that kind of organisation. Otherwise, it is just going to proliferate the issues that we see today. For example, you could have regional hubs that look at local councils. You could look at how they do things. You could offer best practice and advice to them to use at appropriate levels of the competition for the size of the tender. You could also aggregate opportunities together, create standard service-level agreements, which would streamline the process, so that each council is not doing the same thing. That best

practice, like category management, could be shared across all of the regional centres of excellence.

However, when it goes out to tender, they need the right measurables so that, when they do go out to tender, they do not simply aggregate the requirements and send them out to a large business, which is exactly the risk you are referring to—like how ESPO handled their tender. Instead, aggregate the tender but then split it out to SMEs, so that they can still apply as well as large businesses. There are a lot of advantages. If you were not going to do that, you have to ask yourself what you would do otherwise. You then have to go back out to every single local council and embark on a massive training programme. That perhaps might be impractical and very costly.

Q377 Chris Williamson: Who should do that massive training programme?

Alun Rafique: What I am saying is that it would probably be impractical to go out to every single council and roll it out; that would take too long. Having regional centres of excellence, where you have mentors, procurement professionals, people who may be related to CIPS, or the private sector or others from the public sector, who could offer that advice to the local council. You then have less people to train to make that happen.

We had a meeting with IEWM—Improvement and Efficiency West Midlands. They seem to do exactly that: they go out to local councils, understand what procurement they were taking part of, look for aggregation opportunities, look for support and, obviously, save time and money by not doing things 10 times, but doing things once.

Dr Telles: I have two comments. In regard to the first question, if you have multiple bids and you have multiple PQQs that have to be filled in, solving that problem is treating the symptom, not treating the cause.

Another thing I have noticed here in the UK is that the UK is the only member state in the EU that uses the restricted procedure more than the open procedure. In the restricted procedure, yes, detailed PQQs are the norm, because they allow you to select a number of candidates that are going to be invited to present bids. In general, that is what happens here in the UK. As I said, the UK is the only member state that uses the restricted procedure more than the open procedure.

In the open procedure, what the contract authority is interested in at the selection stage is only a *de minimis* capability: does the company have the necessary insurance? It is either yes or no. It does not need to know which one is the best with the best insurance; it just wants to know whether or not they passed the grade.

It is more important to solve the addiction the UK has to the restricted procedure first of all, and then solve the issues related to PQQs. When it comes down to specific PQQs, when they are supposed to be used on actual restricted procedures—i.e. procedures that should be restricted to only a limited number of companies—I would highlight that in Wales, for example, the Government has created an online tool. I do not know if it is online or it is still a paper exercise; it is called a SQID, which is a Supplier Qualification Information Database, which keeps the information logged with the central Government and allows contracting authorities to ask specific questions and get the data directly from that database.

In regards to centralisation, bearing in mind the issues with procurement at the devolved level inside the councils, I personally am of the opinion that, yes, we should have more centralised procurement. The consequence may be that we have more aggregated demand and that may or may not play into the advantage of SMEs, but, at the end of the day, councils should have a more

professionalised procurement workforce, be that the people who are working on a day-to-day basis on a council or the people who are working on a day-to-day basis in a regional organisation or centralised organisation.

Again, that is treating the symptoms and not the root cause. The root cause is lack of training in the people doing that work on a day-to-day basis.

Q378 Chris Williamson: Would more training enable the procurement process to be more cost-effective, more timely and still provide social value for local communities?

Dr Telles: Yes.

Q379 Chris Williamson: What would your one piece of advice to local authorities be, if you were to say, “You need to do this one thing, which will help you down the road towards achieving that goal of more timely and cost effective procurement that delivers social value”?

Dr Telles: If the procurement budget is the one you cut, you will pay, down the line, in the actual procurement that gets done. You will pay more when the procurement actually gets done.

Chris Williamson: Essentially, we should invest in procurement.

Dr Telles: Yes.

Chris Williamson: What would you say to them, Alun?

Alun Rafique: I would say it is simply about guidance on using the appropriate practices for the value of the tender. There are a lot of good procurement people out there and they are sometimes scared about repercussions, for example. They copy previous tenders. They all have a lot of knowledge and experience. They do not necessarily need training; they need guidance so that they feel confident the processes they use are the correct ones.

Martin McTague: It is leadership.

Chris Williamson: Do you mean from elected members?

Martin McTague: Yes, from elected members. It has to come from elected members. They would have to show they put as much value on those components of the purchasing package that will deliver value to their communities—values other than the bottom line of how much they have spent on paperclips.

Alun Rafique: When I was a buyer at Rolls-Royce, I fell into procurement, as a lot of people do. I fell into procurement: I was an engineer and I found myself in procurement; I am not quite sure how I ended up there, but I enjoyed it. That was 15 years ago. The industry is changing. Back then, they were realising that a 1% saving puts 10% back on profits. There was a lot of understanding. People need to raise the attractiveness of the field as well. The way that Rolls-Royce ended up helping drive better practice within the buyers—they have a lot of buyers—was to create best-practice academies within Rolls-Royce, who could help the buyers and start giving them guidance on the appropriate methodologies. They had good people there; they just needed a bit of leadership there to show them what was appropriate for the given time, and that is exactly the methodology we are looking at here.

Dr Telles: They invested money in human resources.

Alun Rafique: Yes.

Q380 Heather Wheeler: You have answered my question about how councils are not doing enough to minimise procurement costs for you. I would ask this next question, wouldn't I? How much of the bureaucracy in local government procurement is due to local authorities and how much is due to EU regulation?

Dr Telles: I will take that one. EU regulations are a very convenient scapegoat in these matters. As I have highlighted, only 25% of contracts are actually covered by EU rules. Below that, you can do pretty much what you want. I do not know why it is not different for the other 75% of contracts, but it is not a problem with EU law. It is a problem at either the local, regional or central levels of government.

What is happening with procurement is a certain feeling that you have to go for the gold-plated option. If you go for the restricted procedure and you go for the PQQ, if you select the IBMs and Accentures of the world you are basically protecting yourself down the line. The interesting bit is that, when you go and see what happens after the contracts get awarded, the number of legal challenges here in the UK is shockingly small.

As far as I know—this is data supplied to me by a colleague of mine, Dr Richard Craven, from the University of Northumbria—we had less than 25 judgments on public procurement in 2012 and around 20 or 25 in 2011. The numbers are even lower for previous years. What that tells me is that, on the one hand, people who do procurement exercises are being very careful, but they are being very careful without actually needing to do so. There are usually no legal consequences of trying to push the practice a little bit more. If you have 10,000 procurement exercises above the EU thresholds and you only have 25 challenges, the risk that the procurement procedure you are running is going to be challenged is very low.

There is a lot that can be done at the process level, which should be done. As I say, for the contracts below the EU thresholds, they should be done from the ground up. If you do them from the ground up, instead of taking the current open procedure and trying to remove things from it, which is what the Government has decided to do over the last couple of years, you should start with a whiteboard and a blank sheet of paper. That way, you will be able to have a much leaner and much more streamlined process and procedure, which is suitable and suited for small companies. At the end of the day, that is what you want. You want to save time; you want to save money; you want to reduce the costs for the procurer and the suppliers. That is what you should be doing. Once you find that way of simplifying the open procedure—in Bangor, we have done some work in that area—it should be mandatory for everyone to follow.

It is not the fault of EU law that there is no centralisation below the threshold and every authority does what they want to do.

Q381 Heather Wheeler: I know you are desperate to get in but we are really quite late for time. I will move on, if you do not mind. I have another difficult question: how can councils ensure that small suppliers are not disadvantaged by large contractors failing to pay them promptly?

Martin McTague: That is the point I made earlier, and it is a really important point. It is relatively easy for them to solve: they can introduce that clause in their contracts to their prime suppliers.

Q382 Heather Wheeler: How do they monitor it?

Martin McTague: There are all sorts of ways they can monitor it. I can give you examples. I will write to you afterwards about how we have seen certain councils apply this very successfully. There are a whole variety of ways in which they can do it. However, they set the benchmark very early on. They make it clear to their prime suppliers that they are watching them. The prime suppliers do not want to lose their relationship. You may need a bit of an audit trail afterwards to check this, but it needs that leadership from the council to say that they want them to pass those payment terms on.

Q383 Heather Wheeler: This is my last question; it is really for Dr Telles. In respect of the pilots for simplifying low-value tender processes, how scalable are the lessons we can learn from that? Is it possible to really copy that across the whole country?

Dr Telles: I would say yes. We ran eight or nine pilots with Carmarthenshire County Council and Gwynedd Council. Everyone was happy with them—both procurers and the private sector. We had no complaints from either the private sector or the public sector. People were really happy with it because, especially for the lead officers that were being involved in the process, it demystified procurement a lot; it does not need to be as complex as it is made to be.

That is an important lesson for us as well. If that happens in small councils, it is going to be valid in big councils. If you start applying a methodology like the one developed there and roll it out across the country, yes, there will be some teething pains. We have already identified quite a few issues that can be solved, but, at the end of the day, everyone will benefit from it. Neither the procurers nor the suppliers are going to get everything they would want from that process; that is not the objective. The objective is to find something that is a middle ground that works well for everyone. It is pretty much scalable for low-value contracts below the EU threshold anywhere in the UK.

Alun Rafique: To the other point about whether it is the local authorities or the EU regulations, to give you an example, with Mole Valley Council we developed a procurement system to help them procure more effectively and adopt from a buyer and a supplier side, but we were told by them we would have more chance of changing our system than they would of changing their procedures for local government procurement.

You asked about which one it is. They had actually interpreted the full OJEU procedures for small-value tenders, so, in fact, in some ways it is not only the local authorities or the EU regulations; it is both together. Obviously, if we did that and incorporated it all within our systems, it would just exacerbate the issue. All of the local councils would then use our system and create just as many problems. I just wanted to add that point there.

Q384 Chris Williamson: Mr Rafique, you touched on this in your final answer. When people talk about whether or not it is EU procurement regulations that are the problem, I am left asking why it is that EU procurement issues are not a problem for our colleagues on the continent. Is it out interpretation?

Alun Rafique: Yes, absolutely. It is our interpretation.

Q385 Chris Williamson: Does that come back to training? What do we do about that?

Alun Rafique: To give you an example, there are lots of different scoring mechanisms for weighted tenders. They are not really set out in OJEU, but we interpret them in a lot of different ways. Once someone has interpreted them, they are copied. When you have this interpretation that is very long-winded and may be incorrect and inappropriate, it is then copied throughout the

councils and this proliferates the issue. You need someone to step in and answer the question and say, "That is not correct".

Chris Williamson: Who is that someone? That is like saying, "They should do something about this". Who is it?

Alun Rafique: You could have some regional centres of excellence or someone they could speak to. It could either be that or you would have to go around and train everyone again. You are quite right: for low-value procurement, the problem is the interpretation of the rule. Some people take the full OJEU process and interpret it for the low-value tenders, and put too much rigour towards it.

Martin McTague: In part, the EU is an easy scapegoat, is it not? If you really do not want to do something, blame the EU and pretty much anybody will accept it.

Chair: We do not want any divisions in the Committee.

Thank you all very much for coming to give evidence this afternoon. We appreciate it. Thank you.