



Public Accounts Committee

Oral evidence: Probation: Landscape Review, HC 1100

Wednesday 12 March 2014

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Members present: Margaret Hodge (Chair); Mr Richard Bacon; Stephen Barclay, Guto Bebb, Jackie Doyle-Price, Chris Heaton-Harris, Meg Hillier, Stewart Jackson, Fiona Mactaggart, Austin Mitchell, Nick Smith, Ian Swales, Justin Tomlinson.

Amyas Morse, Comptroller and Auditor General, National Audit Office, Gabrielle Cohen, Assistant Auditor General, National Audit Office and Mike Newbury, Director, were in attendance.

Witnesses: Dame Ursula Brennan, Permanent Secretary, Sarah Payne, Director, National Offender Management Service Agency, Antonia Romeo, Director General, Criminal Justice Group and Michael Spurr, Chief Executive, National Offender Management Service Agency, gave evidence

Q1 Chair: Sorry to keep you waiting. I understand—and have also seen in correspondence with the Committee Clerk—that there has been some reluctance to talk about this NAO Report. I want to say publicly that this Committee has a tradition, where there are major reforms, of looking at the situation and the challenges that you face in the implementation of policy, not in challenging the policy. We have done that across everything from the Olympics onwards and we think it is totally appropriate that we should do it on this one. I hope you will accept that. We are not going to ask you about policy. What we are going to do is set standards against which we will then judge whether or not you as officials implement the policy providing value for money, effectiveness, efficiency and economy in your approach. We will come back to that before the general election as we proceed. It is on the basis of setting those parameters that we are questioning you today.

First, I want to ask about the way in which this has been designed and whether in fact it will bring some of the savings that you require to be able to deal with 50,000 additional offenders. You are establishing two separate capabilities: a nationally run capability and one that will be run by private providers. Why did you decide to go down that route? How did you feel that would improve the efficiency and effectiveness of the service that you are providing?

Dame Ursula Brennan: Perhaps I should first say that, when you say private providers, that is private providers but also mutuals and voluntary sector. It will not be exclusively private providers.

Chair: Third sector providers.

Dame Ursula Brennan: Yes. The decision to say that, in making these changes, we wanted to split the service into the national probation service and the community rehabilitation companies was made because we wanted—and Ministers have set out very clearly what their strategy is on this—to tackle reoffending, and particularly in that group that has not had support with their reoffending before, the under-12-month group, by having a new group of people brought in and by extending the concept of payment by results to this area, mixed with a fee for service. It is not a wholly payment by results regime. However, there are high-risk offenders whom we wished to keep under a nationally run, national probation service. My colleagues can expand on that in more detail, if you wish, but it was a concept right from the start around risk management and the management of high-risk offenders.

Q2 Chair: The reason I asked the question is that if you split it in that way instead of having a unified service, it seems to me that you inevitably create new bureaucratic costs. How have you examined those? You will have to have a bureaucracy that decides whether a particular offender is dealt with by one group or another. The Report talks about a number of people going to third sector providers—we will come back to who they are in a minute—who may then find themselves transferred to the national provider because of the risk. All that creates bureaucracy. One assumes that you have to eke savings out to meet the Treasury savings target that you have been set for 2014-15. You then have to make further savings, because you need to eke out money to provide a probation service for the additional 50,000 offenders. I would like you to comment on creating these two structures and the inevitable bureaucracies that will arise out of decision making, and will bring additional costs rather than savings? Why do you think that is wrong and that you will be able to prove me wrong when you implement?

Dame Ursula Brennan: There are several things wrapped up in your question. Perhaps I can start with some of them and my colleagues might expand. To pick up the point about savings and Treasury targets, Ministers have been clear from the start that this programme of reform is not designed to produce savings in and of itself, in terms of the change—

Q3 Chair: Hang on a minute. You have a 10% savings target for 2014-15. Does that not cover the probation service?

Dame Ursula Brennan: We have deliberately concluded that we want to protect spending around probation in order to be able to extend it.

Q4 Chair: So you do not have to find 10% in 2014-15?

Dame Ursula Brennan: No.

Chair: Okay. But once the new service is set up, the way you will fund the 50,000 extra offenders is by finding savings elsewhere?

Dame Ursula Brennan: We will be obliged to find savings in the Ministry of Justice budget, and we have been doing that.

Q5 Chair: So you are going to fund the extra offenders from elsewhere in the Ministry of Justice budget?

Dame Ursula Brennan: Perhaps Michael might comment.

Michael Spurr: The whole of the probation budget is largely being maintained, but we want to use it in a different way and extend service provision. So the savings that we take from the new way that we are going to operate, we will reinvest effectively to extend provision to the 50,000. We can do that for two or three reasons. The rationale for separating and having a national service and then companies involved in delivering for the medium and lower-risk offenders is in recognition of that policy requirement for payment by results. You cannot actually deliver a payment by results regime effectively in the public sector alone: there is some risk involved in that and the public sector does not put money at risk in the same way, so it requires a private, third sector or other means of delivering that service. That means we could not do it as one unified service.

There was a recognition that there are some offenders where payment by results would not be appropriate. Those are the ones who will be managed solely by the national probation service, and that is the reason for having that service. In creating the national probation service, which is one body as opposed to the current 35 trusts, we will drive a significant amount of savings from the corporate and—horrible term—the back office current arrangements.

Q6 Chair: Yes, but you will have 21 organisations that will also have their administrative costs.

Michael Spurr: We will certainly make savings by creating one national probation service and administering that from the centre, with one set of overheads, one shared service centre and one set of arrangements; we will drive savings there. Our expectation for the 21 community rehabilitation companies is that the competition in itself will bring in providers who will look to do things differently, and competition in itself will drive efficiencies. We have good examples in the past of that being the case. They will drive down their corporate back office costs because the providers will have other means of doing that, and they will look differently at the mix of staff and the way in which they deliver their arrangements. There are two elements there: the savings we will make from the national probation service and the savings we will make from the competition process and the innovation that will come from that. The third area of savings will come from PBR, because the providers will be paid only if they reduce reoffending to a greater degree than we are doing now. That will

deliver long-term savings. As the Report makes clear, there is a cost of more than £1 billion to the economy from the short-term offenders, in particular.

Q7 Chair: We will come back to PBR. I want to pursue the point that you have not quite answered. I understand that if you create one national bureaucracy instead of 35 there may well be a saving, but do you accept that the 21 organisations will have to have their own administrative structures?

Michael Spurr: The 21 organisations will have to have their own administrative structures, but—

Q8 Chair: And that will go into the cost somewhere. However efficient they are, they will have administrative structures.

Dame Ursula Brennan: That is fewer than the 35 that exist at present.

Q9 Chair: Yes, but you have not answered the question. If you are going to have a system whereby you allocate individuals from one to another, and if you have a system whereby if people are allocated to the private and voluntary providers and the risk then goes up—I gather that it is likely to happen to one in four—they have to be reallocated back into the national body, both sets of decisions will require their own bureaucracy and therefore additional costs will arise. I accept that there will be some savings from going to one, and there will be some savings from having 21 not 35, but there will also be additional administrative costs from the new processes in which you engage.

Antonia Romeo: First, on the 21 CRCs, I can reassure the Committee—

Mr Bacon: There are people in the Committee who know that PBR means payment by results and that CRCs are community rehabilitation companies, but for the public at home who do not, we have an aversion to TLAs—three letter acronyms. If you could speak English, we would all appreciate it.

Antonia Romeo: Fair enough. I can reassure the Committee that for the 21 community rehabilitation companies we have done a substantial amount of design work looking at how the extension of provision to the under 12-month group will be affordable. A shadow bid was done by independent external assurers, and it has been separately assured by another group that has been working with us on the financial affordability. We have tested ourselves thoroughly and we have been talking to the market about whether it thinks it is deliverable. Thus far, from the strength of the market, we are confident that market providers believe they will be able to deliver within the affordability envelope that we have set.

In terms of the process of separating the national probation service from the community rehabilitation companies, we are in the process of a significant programme of testing with trusts how it will work in practice. We want to ensure that we have made the processes as lean as possible and reduced bureaucracy wherever we can in the new structure.

Q10 Chair: I accept that, but you still have not answered the question, even though three people have had a go at it. If you establish a new process that requires you to decide where to allocate a particular case and requires you at a later stage, if one in four cases shift from being low risk to high risk, to have a system to monitor that and make the decision to move, then however lean you make it, it is a new process that will have a new bureaucracy. Am I right?

Dame Ursula Brennan: Perhaps Michael can respond.

Michael Spurr: It is not an entirely new process at all—

Q11 Chair: Are you telling the Committee that when we test you in a year's time no additional costs will have arisen out of the new processes?

Michael Spurr: I would like to explain the point.

Q12 Chair: No, just answer the question.

Michael Spurr: I would like to answer the question. At the moment, probation trusts allocate cases within the trust. They allocate cases from court and do what is called tiering—they tier the cases, determine whether they are tier 1, 2, 3 or 4 and allocate them on that basis. That is how they prioritise use of resources. What we will be doing is not at all dissimilar to that. We will use the risk assessment process that they use for tiering—although we are actually refining it and improving it—at the point of court for allocation in the same way that probation staff currently do that internally. We will do it to the companies. So the process that currently exists will be a new process in the sense that the CRCs—sorry, community rehabilitation companies—are in place, but it is not a completely new process; it happens now.

In terms of the potential movement after you have allocated a case to a community rehabilitation company, I am sorry, but I do not recognise the one in four cases that potentially will transfer back to the national probation service; I do not anticipate anything like that amount of transfer back. It is true that risk can vary and that risk has to be managed. The issue then is about what is the right approach, and the number of people that we would formally, under the current probation trust arrangements, reallocate from a tier 3 up to a tier 4 is not one in four. It might require engagement and communication between a CRC operator and a national probation service operator, but that goes on now within a trust for those who are managing—

Q13 Chair: So, Mr Spurr, are you giving this Committee the assurance that these new processes will not add additional administrative costs to the running of the system? Yes or no?

Michael Spurr: I am giving an assurance that we will minimise the amount of cost of using the processes.

Q14 Chair: But will there be additional cost or not?

Michael Spurr: I cannot say that until we have gone through and seen what the bid process is.

Dame Ursula Brennan: I don't think you can simply say, "There will be additional cost," because—

Q15 Chair: With respect, you were saying there were savings.

Dame Ursula Brennan: What I am trying to say is that we are not saying, "Here is how we do it now. We are going to do something that adds cost to it." We are saying, "Here are all the costs now. They are going to lie in different places, and the procedures are going to look different." So we are not simply saying, "Here is a process; we are adding cost to it." We are saying, "Here is a process that is going to operate in a different way."

Q16 Chair: With the greatest respect, that is not what you were saying, Dame Ursula. You were actually saying that going from 35 to 21 will save costs. The fact that we are going to a national body will save costs. All I am saying is that, on the other side of that equation, will there be additional costs from the fact that you have got a process where you have to have communication between 21 trusts—21 separate organisations—and a national body, because of people, first, being allocated in the first instance and, secondly, being moved? How many do you expect to be moved? What proportion? In your experience, how many people go up and down that risk register? You must know.

Michael Spurr: In terms of risk changes, there are factors—

Q17 Chair: How many? If I was wrong about my one in four—

Michael Spurr: I do not have a figure, because we do not retain a figure in that way.

Q18 Chair: Well, how do you know the one in four is wrong?

Michael Spurr: Because when I talk to probation chief officers and probation officers with the experience that you have identified, although risk might change, moving the offender manager—the probation service officer who is managing the case—is not a normal response to that change in risk.

Q19 Chair: No, I know, but you are designing a different system.

Michael Spurr: My aim would be to minimise the amount of movement of the people who are managing cases.

Q20 Chair: How many do you reckon? What is your idea of this?

Michael Spurr: Relatively small.

Q21 Chair: What does that mean?

Michael Spurr: It means what I say—relatively small.

Q22 Chair: I don't understand that. When you are trying to predict processes, how many does it mean?

Michael Spurr: I don't think it is fair for me to pluck a figure out of my head at this minute.

Chair: I think it is.

Michael Spurr: I can't do that.

Chair: Well, it is one of the additional costs you will have. Okay. I'll come back later.

Q23 Nick Smith: On that point, page 19 of the Report states: "Arrangements will be put in place so that in cases where the risk of serious harm escalates, providers will notify the public sector probation service". Mr Spurr suggests this is every day, and there will be an attempt to minimise movement, but I am still not convinced from what he said exactly how this will be done.

Michael Spurr: If there are factors that indicate an overall risk has escalated to such a degree that there are immediate and serious concerns about risk of harm, there should be a notification to the national probation service. We are working through the protocols for making those formal referrals back. The point I was making was that risk goes up and down for a good deal, but in most cases, that does not require a change of case manager; it might require a conversation with the police, for example, that some information has come in, but you do not change the case manager. That would not necessarily require a movement back to the national probation service.

We have to work through how the new arrangements will operate. We are in the middle of that programme to establish clarity about how this will operate in practice with the expertise of probation staff at senior level. I anticipate that people in the new community rehabilitation companies and the national probation service from the outset will be co-located in offices, so conversations can still take place even though people are working for different organisations. They do so now in probation, where probation work is part of multi-agency arrangements, for example, with integrated offender management, with the police, with drug services and health services. People can be co-located: police with probation, health service

or drug service users with probation. They have conversations and manage risk in that dynamic way. That is what I anticipate happening under the new arrangements.

You asked me for a figure of how many people would be formally re-allocated. I have not got that figure yet.

Q24 Chair: No, a percentage is what we want.

Q25 Stephen Barclay: What if it depends on how innovative local teams are? If a team locally is innovative, they may have less to readjust and if a team is not innovative, they may have more.

Michael Spurr: We will want to monitor very carefully how teams are operating, because a critical part for us is to ensure that public protection is maintained.

Q26 Nick Smith: I want to return to page 19 and PBR. Chair, will you allow me a quick one on PBR? What I am trying to get to, in terms of understanding the value for money aspects of this—the big picture stuff—

Chair: Payment by results.

Q27 Nick Smith: Excuse me, payment by results, thank you Richard. How much will be paid by results and how much will be paid regardless of results?

Antonia Romeo: As you have rightly identified, this is not just a wholly payment by results programme. The majority of the contract will be on a fee for service basis to ensure that quality is maintained in the provision of services, including, for example, the orders of the court. The exact proportion of the contract that will be fee for service versus payment by results is subject to negotiation during the bid process, so during competition we are asking providers to come back and tell us within an overall affordability envelope how much they would be prepared to put at risk. The answer to that is not yet known.

Q28 Nick Smith: Do you have any sort of ballpark figure—whether it is going to be 80% fee/20% payment by results?

Antonia Romeo: It is made slightly more complex by the fact that there is an additional element which is essentially at risk of the provider's profit, if you like. We have something called service credits, which apply to the fee for service element. If the providers are not doing what they said they would do in the contract, we will be applying those service credits and they will have a proportion of their profit at risk on that basis. Overall, I think the best thing to say at this point, so that we do not prejudice the competition, is that the majority will be fee for service.

Q29 Nick Smith: So just half? Just over half?

Antonia Romeo: I guess by “majority” I am saying more than 50%. We are in the middle of a live competition, so with the indulgence of the Committee, I would prefer not give more detail at this time.

Q30 Guto Bebb: I think we have already moved into some of the detail, but I want to get a broad-brush picture to start with, to clarify the response to the Chair’s questions. We are basically saying that the overall budget is roughly staying the same. Have I understood that correctly?

Dame Ursula Brennan: Yes.

Q31 Guto Bebb: There will be changes within the structure; some of those changes will provide savings, and some will provide a cost, but overall you hope that there will be savings to be reallocated. The increase in case load is roughly of the order of 20% to 25%, so you are looking to provide for a case load that is 20% to 25% higher using the same amount of money. Is that roughly correct?

Dame Ursula Brennan: It is worth bearing in mind, when you look at that under-12-month case load, that there is no requirement to do the kind of intensive service that you do with the other case load that applies to those people.

Q32 Guto Bebb: In terms of the cost to the state of the reoffending of that case load, I thought that the key argument for doing this was that we need to deal with them effectively.

Dame Ursula Brennan: Yes, but the point I was making is that of the offenders who have a sentence of less than 12 months, some will need very little support and some will need rather more intensive support. You cannot simply say, “Here is the case load; it is being increased by that percentage, so the cost must go up by that amount.” It does not balance out in quite that way.

Q33 Guto Bebb: I am just reflecting a concern that has been expressed by some of the probation officers to whom I have talked. They think the case load will go up significantly. In terms of the 20% to 25% in actual numbers being roughly correct, your argument is that the work involved will possibly be less with some of the new case load.

Antonia Romeo: You are right that the programme will bring in 50,000 offenders who do not currently receive statutory rehabilitation services. We anticipate that the service provision will be completely different. The programme is designed to open up the market to a more diverse range of providers and bring in the voluntary sector—the third sector—throughout the supply chain. We think the service provision will look significantly different to how it looks now. The number of offenders it deals with will go up, but it will not be the same sort of model. We are not saying, “This is the service that is now provided, and there will be an additional group on top of that,” because it will be a different type of service.

Q34 Chair: That is interesting. Will the service look different in relation to the existing cohort of people who are dealt with by the probation service, or in relation to the new cohort of offenders with sentences of less than a year?

Antonia Romeo: We think that everybody who is brought into the scope of the community and rehabilitation companies will have services delivered in a different way. That is one of the policy aims of the programme.

Q35 Chair: Give us an idea of what you are talking about.

Antonia Romeo: In the Peterborough pilot, what we have seen is that the provider has chosen to move more resource into resettlement through the gate, for example, which we think demonstrates—

Q36 Chair: Will you explain that to us?

Antonia Romeo: Sorry. Resettlement through the gate is the idea that you have more resource focused before people leave prison. Through the gate is through the prison gate, effectively. By incentivising providers to work through the gate, you allow and incentivise them to go inside the prison before the offender is released to work with, resettle and rehabilitate them, in terms of housing, getting a job, etc., so when they come out they have those support factors in place. In Peterborough, they have worked closely with peer mentors, which the Secretary of State is keen will be involved in the new model. The idea of the programme is for it to deliver different types of services through innovation and look at new ways of doing things.

Q37 Chair: But the Peterborough model, as I understand it, is voluntary.

Antonia Romeo: That is correct.

Q38 Chair: And the model that you are designing is not voluntary.

Antonia Romeo: Yes, that is right.

Chair: Austin.

Q39 Austin Mitchell: Thanks, Chair. I thought my moment of greatness was never going to come, but it has finally arrived. The idea of putting people who have been to prison for less than a year under the probation service is good. It should yield results. But I also believe in the deeply conservative principle, “If it ain’t broke, don’t fix it”—that is why I am in the Labour party. The NAO and others that have reviewed its performance found that “In general, the probation sector has been performing effectively.” Four got the “exceptional

performance” classification, and the rest got the “good performance” classification, so it ain’t broke; it is working well. Why couldn’t offenders who are in prison for less than a year be put under the existing arrangements? Why change it all to cope with them?

Dame Ursula Brennan: I think my colleagues were explaining earlier that one of the key aims that Ministers have of the programme is to extend the service to prisoners who have been in prison for under 12 months, and who leave prison. In order to do that, the approach of using different types of providers, bringing in different groups of people to work in this sector, and having people who will put money at risk through the payment by results element is what enables you to put money at risk, develop new ideas and then extend the service. If we tried to do this inside the public sector, you could not really have public sector organisations putting money at risk. That solution is not available.

Q40 Austin Mitchell: But public sector organisations can conceive new ideas. The people experienced in the work already, who will be doing it again if they are transferred, are surely in the best position to generate new ideas and approaches.

Dame Ursula Brennan: What I think we were saying is that the way the programme is designed is to deliver the savings from operating in a new kind of way, and to use those savings to extend the service to the under-12-months group. If you do not generate the savings from the service, it is not possible to redirect them to that under-12-month cohort.

Q41 Austin Mitchell: Okay, I do not want to stray into policy, so I will not question that further. If the incidence of recurrence of offences is greater, as figure 5 on page 17 suggests, among those who are imprisoned for a year, and those who are in prison for longer periods are less likely to reoffend—about one third of them reoffend, compared to 57% of the year offenders—and you are now putting them under the probation service, which on a priori grounds must mean that they get a better deal and are better treated, looked after and helped, then it is going to be an easy gain to get the fee for bringing down reoffending.

Dame Ursula Brennan: Well, as you might expect, we have done quite a lot of work on the design of the payment mechanism to make sure that it is not an easy gain, to make sure that what we pay for is improvements in the service. We have structured a quite complex payment mechanism in order to do precisely that.

Q42 Austin Mitchell: But you are likely to have more successes in that group.

Dame Ursula Brennan: Yes, you are likely to have more successes, but we take that into account in the way we set the—

Q43 Austin Mitchell: Yes, but that is easy money and the rewards for—

Dame Ursula Brennan: It is only easy money if we set the bar low, if you see what I mean, which we do not intend to do.

Q44 Austin Mitchell: You have spent a lot of time on the design. Why is it that there were no trials? You have had trials of methodology in Doncaster and Peterborough; why have you not had trials of the financial system and the rewards and the reporting system, which is going to be done by the national part of the new service? Why hasn't that all been trialled, so that we know whether it works?

Antonia Romeo: As you will be aware, we are adopting a phased approach to the whole programme. We have done a lot of testing, and we will be doing shadow running under current governance of the new teams and structures. We will then have a period under new governance, but still in the public sector, before eventual share sale.

Q45 Chair: By when?

Antonia Romeo: The programme is on track to deliver payment by results across rehabilitation services by 2015.

Q46 Chair: When in 2015?

Antonia Romeo: The commitment is 2015.

Q47 Chair: When?

Antonia Romeo: Our plan is to sign contracts this coming year.

Q48 Chair: When will the new scheme be going? You want to sign contracts in 2014. Are we talking about spring, summer or autumn 2015?

Antonia Romeo: We are still discussing with Ministers the exact process of when we would mobilise. We are also discussing that with the market during the period of negotiation. Critically, on the point about testing and phasing, we expect different parts of the system to mobilise at different points. For example, the under-12-month cohort, as we call it—the group of under-12-month offenders—will build up over time. As of day one of mobilisation, they will not all be in scope. Likewise, on the through-the-gate services, we would expect to allow providers time to build up those services before turning on that through-the-gate provision—that is the provision of rehabilitation services before release from custody.

Q49 Austin Mitchell: Parts of it have already been put back. Can you say that the timetable will be adhered to?

Antonia Romeo: We are on track to deliver.

Q50 Austin Mitchell: And they will all be flogged off before the election.

Antonia Romeo: As you would expect and hope, we are running this programme in a carefully and properly managed way, which means that we do not progress to the next phase without careful consideration of whether that is the best time to do so. At every step of the transition, we are looking very carefully at the impact on current business and at what point we would best move to the next phase. That is what we are doing.

You asked about trials. As you know, we have had pilots of the methodology in payment by results, and we feel that we have learned a lot.

Q51 Chair: There is a big difference between one that is voluntary and one that is compulsory, isn't there?

Antonia Romeo: You are right that it is not exactly the same model, but we feel that we have learned a lot, in terms of commissioning payment by results: how to incentivise and how to measure. I would also like to say that we have taken very close account of the Audit Commission's report in 2012 on payment by results and the clear lessons to be learned on different approaches to doing payment by results—lessons on clear purpose, understanding risk, robust measurement and so on. We have spent a lot of time ensuring that what we are designing is something that we think meets those requirements.

Q52 Guto Bebb: Payment by results in relation to the criminal justice field is a new development—not necessarily a bad development, by the way, but a new departure. In 2010, the Ministry of Justice made it very clear that there was an intention to road test payment by results really rigorously. There was talk of six areas being tested in detail to see how the system worked. There has been a roll-back from that position. Are you confident and comfortable that a really rigorous testing of the process has been undertaken properly?

Antonia Romeo: As you say, Government policy is to roll out payment by results by 2015. My job is to ensure that we in the programme, and in the delivery of the policy and the benefits, have learned the lessons from existing pilots. I believe we have.

Q53 Guto Bebb: How many pilots were taken?

Antonia Romeo: The two I am referring to are Peterborough and Doncaster.

Q54 Guto Bebb: Because in 2010 there was mention of the potential to do six.

Antonia Romeo: There are other pilots. The community pilots were not actually due to look at the through-the-gate, which we have learned from the pilots we have done is one of the most important aspects.

Q55 Chair: Is there any international evidence on this payment by results stuff?

Antonia Romeo: Very little, actually.

Q56 Chair: None? Any?

Mr Jackson: There is some in the United States, I am sure.

Chair: Is there?

Antonia Romeo: There are various different models, because of course in the United States there are states where probation is provided privately, or by the voluntary sector. In terms of an exactly equivalent model, there is not one of which I am aware, but perhaps we can provide more information to the Committee.

Q57 Austin Mitchell: Greatness is a very transient thing, isn't it? The Social Market Federation—a body I do not know—says that under the proposed model, investors and providers risk making losses if they spend money on rehabilitation services. It says that they can only be confident of gaining money for successful results if the reductions in reoffending are greater than available evidence suggests is achievable. Financially it is therefore more viable for them to gain money from the fee for the service, rather than investing in services that would allow them to reduce reoffending. That is from August 2013, and we are now in March 2014. Have changes been made to your payment plans to take account of those criticisms?

Mr Jackson: Who are those criticisms by?

Austin Mitchell: It says, “a cross-party think tank”. I don't know which party is crossiest.

Antonia Romeo: The answer to the question, “Have we taken account of responses on the payment mechanism, which we published to seek people's views on it?” is yes. We published it so we could get people's views, so we could take account of them, so we could get the payment mechanism right. We have been very closely scrutinised by the Treasury and the Cabinet Office. We have been talking to the market and we have had external assurers come in and look at our payment mechanism, because we accept that it is an essential part of the programme.

Chair: Amyas?

Amyas Morse: My question is more about what the environment is going to feel like. We are talking about innovation. Given that you have competitive pressures, how are you going to facilitate sharing best practice and innovation? If you see somebody coming up with something good and you want to see it spread about, how are you going to get that to happen?

Michael Spurr: You are right to identify that the system will need people to collaborate and work together, and that is something that we are making absolutely clear

through the whole programme. For new providers, we are promoting, encouraging and expecting there to be not only prime providers but second and third-tier providers with very local engagement, which requires a significant amount of communication and work to make sure that operates. We will be requiring and will be looking at how services are being delivered, externally through our own audit processes and through the external inspection processes, and we will be looking ourselves to be able to share good practice, because our responsibility is to make sure that any good practice identified is shared.

We are currently sharing all the evidence that we have about what really does make a difference in reoffending. People can choose to use that or not, or develop their own approaches. That is the point of providing an opportunity to innovate. But we are starting as we mean to go on, effectively saying, “This is open and transparent and we are sharing it because the expectation is that we want to see the reduction for everybody’s good,” and that is what we are going to promote with companies, both in the competition process and absolutely once we are in live operation.

Amyas Morse: Okay. The reason I asked that is that sometimes when you are looking at commercial providers, understandably they are very concerned about any competitive advantage they think they may have, and if you lay the ground rules down early on to say, “Listen: you may think that, but we are not going to like you trying to invoke competition clauses, or saying that you want commercial secrecy if it is something which is straightforward.”

Michael Spurr: It will be done in a pretty transparent operation. It is difficult to hide what you are doing when you are dealing with those people, and the independent inspectorates and audits, etc., mean that I can’t see it being possible to be able to say, “We are doing something and we are going to hide it from everybody else.” I think that gives us some advantage. Equally, we are starting with that very clear message that says, “This is about improving the performance across the system,” and the competition will bring innovation. Like most things in a competitive environment, if things happen, somebody else sees it, they take the best and try and develop it further. That is what we want to see happen.

Q58 Ian Swales: I would like to ask you about something that the Chair asked about near the start, about the potential extra costs of all this. I am referring to figure 6 in the Report, on page 22. I am now left more confused than I was before about how it is all going to work. I would guess that if you wrote your current organisation down, it would look one hell of a lot simpler than this. For example, do you have a regional structure at the moment?

Michael Spurr: For probation, we have 35 trusts.

Q59 Ian Swales: Yes; all responding to a national head.

Michael Spurr: No, they are independent, non-departmental public bodies, with their own chief execs, their own trust boards. We manage them through the National Offender Management Service by contract, and I have contract managers. Effectively, they are public service contracts.

Q60 Ian Swales: So it is pretty straightforward. You have your national equivalent of the director of NOMS and then 35 probation services. Now we have regional organisations, and then we have local delivery clusters, which paragraph 2.8 at the foot of the previous page says you expect to align with police force areas; I think there are 43, if my memory serves me correctly. So is that the intention?

Michael Spurr: Yes.

Ian Swales: And, further, you will align with local authority boundaries. I do not know if local authority areas are ever bigger than police authority areas. They are as big, or in some cases a lot smaller. It is a fairly random type of organisation.

Dame Ursula Brennan: Perhaps Sarah Payne, who is a practitioner, might be able to help.

Q61 Ian Swales: Can you explain how this will work geographically?

Sarah Payne: I was going to offer an explanation of how the local delivery unit system works at the moment. For example, in Wales, when we first merged, we had 10 local delivery units, and then we reduced to seven and they are aligned to our partners' boundaries. The local delivery unit clusters referred to here are no different, because they are designed to enable partnership working. Those units will be mirrored, certainly in Wales, in the community rehabilitation company.

Q62 Ian Swales: So we have 35 probation services going into 43 police force areas, led by six regional groups and then 21 different contract areas for—

Dame Ursula Brennan: Perhaps it is just worth having another go round that. At present, you have the 35 probation trusts, which are separate bodies with their own chief executives and chairs and boards, and so on, and a central organisation, called the National Offender Management Service, which has a relationship with all those 35. In any one of those 35 areas, they are dealing with an amazing array of partners, which are all organised—often—slightly differently. They are dealing with drug partnerships in the health service, the police, the Crown Prosecution Service and courts, and they do that by having local organisations—local units—within their structure. When we move to 21 community rehabilitation companies, they will still be engaging with local partners and will still have their own local units.

Q63 Ian Swales: You have led me into my other area of questioning. To what extent are you going to prescribe how they do that? I am asking because there are a lot of echoes of the Work programme in this, and one of the Work programme contractors for the north-east has not even bothered to set up in my local authority area. All the people have to travel to a neighbouring area, because there was nothing in the contract that said they had to do anything in my local authority area. Given that some of these 21 areas are quite large, how will you

ensure that the rehabilitation companies actually set up locally and interface with this organisation on the left, which looks to have something of a different structure?

Antonia Romeo: I will say something about how we will ensure that they are going to provide services to all offenders: simply, through the contract. The contract will require the providers to provide a minimum level of service to all offenders, but also to provide the service that they said they would in the contract. Although, as we said earlier, some offenders inevitably will need more provision than others, it will not be possible to leave a group of offenders or a particular area or locality with no provision, because you would need to provide to all offenders.

Q64 Ian Swales: Okay, it is partly about travelling, then. I will finish my line of questioning on this point. Are you ensuring, as part of the bidding process, that the community rehabilitation companies tell you what kind of local set-up they intend to have?

Antonia Romeo: Yes.

Michael Spurr: Absolutely. Local partnership working is a key part of the evaluation that we will make.

Q65 Ian Swales: There is an issue about the second round of piloting. Do you intend to sell all the shares in the CRCs at the same time, or do you intend to do what I should have thought was sensible, which is phase that process, both from the point of view of your own resources and from the point of view of seeing whether it is working? Would you be doing that?

Antonia Romeo: We are running 21 competitions at the same time.

Q66 Ian Swales: With the same completion date for all of them?

Antonia Romeo: With the same intended completion date.

Q67 Ian Swales: Well, it sounds risky, but that is a clear answer.

Finally, we have seen many of these contract bidding processes where the original winners of the contracts then on-sell their contract, either because some aggregator or other firm wants to get in. In this case, it is pretty obvious that two of the large firms that you are excluding will be sniffing round all the winners very quickly. Also, we found that, in some cases—the Ministry of Justice translation service is a good example—the original winners of the bids get such a good deal that they are able to cash it in straight away and walk away with, I think, a few million in that case for an individual. What provisions will you make for the long-term ownership of these CRCs and what do you do if one fails? This is not a service that we can have failing for any length of time.

Antonia Romeo: In terms of provisions, we are asking bidders to set out clearly what their supply chain is going to be and we expect them not just to list the voluntary organisations with which they will be working, but to demonstrate in their bid how they will embed those providers—exactly what those providers will be doing—in their service provision. Obviously, that will need to be flexible over time, but if there are significant changes during the time of the contract, they will be required to discuss them with the MOJ, which gets rid of some of the issues that might have arisen in other contracts about people being mentioned during the bid and then perhaps having less of a role to play later on.

In terms of supply failure, it is mentioned in the NAO Report and obviously we have a number of remedies, if you like, in place. The contracts will have a full range of remedies, up to and including termination. Our intention is that that issue will not arise because we will have to do very rigorous evaluation, which is why we have asked bidders to give us a lot of evidence in their bids on a range of things including, for example, local partnerships, to ensure that we will not be in a position where we have to deal with supply failure, but if we do have to deal with it, we have contingencies.

Q68 Chair: What is the contingency?

Q69 Ian Swales: Before Ms Romeo answers your question, Chair, can I put my question to her? There is the opposite failure, which is happening of course, for example with Serco and the Cornwall out-of-hours contract and the NHS. What happens if the supplier just says, “You know what? We’re not making enough out of this. Bye!” and so they go. That is a different kind of potential failure; there is failure triggered by you, but there is failure triggered by them as well.

Antonia Romeo: All these issues are subject to negotiations with suppliers, which we are going through at the moment in the competition phase. At this point I would like to assure the Committee that we are aware of these risks and that, as you would expect, we have in place contingencies should those situations arise. We are very aware that the best way to stop them arising is by investing at the outset, in terms of getting the bids right and awarding the contracts to the right providers.

I would probably rather not go into detail about the contingencies, if the Committee is okay with that, because we are discussing them at the moment—

Q70 Chair: But you are putting them in place? It is something that we have talked about in health, and we have looked at it in the Work programme. It is really important to have a contingency.

Antonia Romeo: Yes.

Dame Ursula Brennan: We will be really happy later to talk in more detail. At the moment, we are at the stage of negotiating with the bidders. We are absolutely expecting to talk to the NAO about all that.

Q71 Ian Swales: Can I just get an answer to my other question, which is about the ownership of community rehabilitation companies? Given that you are setting them up as companies with shares and so on—therefore, tradeable and what-have-you—what constraints, if any, are you placing on the long-term ownership of those companies? The most extreme one would be that the ownership reverts to the public sector if the original bidder decides to walk away or is sacked. But what about the point I made, that it is quite possible that the original bidders may then seek to exit by cashing in and selling to—potentially, I guess—a couple of the companies that did not bid in the first place?

Antonia Romeo: They would not be able to change ownership without discussing it with the MOJ.

Ian Swales: Well, that's different.

Q72 Mr Bacon: As long as they talk to you about it, then they can sell. That is not what you meant, is it? Or is it?

Antonia Romeo: I am deliberately trying not to find myself in a position where I reveal too much during the process of a live competition. We have quite clearly set out in the contracts the basis on which such changes would be made, but what is quite clear is that they would have to get permission from MOJ to do that.

Q73 Ian Swales: Could you just say whether you have any private sector experience on your side of the table in this process? I mean, is this all being done by civil servants, or have you got foxes on your side of the table as well?

Antonia Romeo: Yes, we do. Obviously, we know that equality of arms is one of the critical factors in getting these commercial contracts right. Others may want to comment on what we are doing more broadly in MOJ in terms of contract management—

Chair: Not very well, if I may say so.

Antonia Romeo: In terms of the rehabilitation programme, the programme director has 20-odd years of commissioning experience, both in the private sector—

Q74 Chair: Were they involved in either the interpreters' contract or the tagging contract?

Antonia Romeo: No.

Q75 Mr Bacon: Is anybody involved with either of those contracts still inside MOJ, or have they all gone?

Can I just check something: if a contractor for the new programme decided to register their pet rabbit as a sub-provider, would you find out about it?

Antonia Romeo: Yes.

Q76 Mr Bacon: You didn't the last time, with the interpreters. What if they registered their dead dog? I am not being entirely facetious.

Mr Jackson: Yes, you are.

Mr Bacon: This has happened—there was a cat, a rabbit, and a dead dog. They were registered successfully, and when the owners of these animals, including the dead dog, did not answer further questions, they were still offered work under the interpreters contract by the contractor, ALS, so it is not a frivolous question.

Dame Ursula Brennan: I believe we dispute that.

Mr Bacon: Well, it was in the newspapers—

Dame Ursula Brennan: It was indeed.

Mr Bacon: —so of course there is a 50% chance that it is not true, but some extraordinary things have gone on, and that is certainly also true in relation to the tagging contract; you would not deny that.

Dame Ursula Brennan: I do not know that there are any cats and dogs involved in the tagging contract, but the tagging contracts were indeed a serious problem to us, and I am very pleased that we have now managed to get a substantial sum of money back from both the companies that were involved.

Q77 Chair: And criminal prosecutions?

Dame Ursula Brennan: Criminal prosecutions remain in play.

Q78 Mr Bacon: What is the answer to my question? Would you know about it?

Antonia Romeo: We have learned lessons from various other contract management issues. We have a lot of commercial expertise already, but we are strengthening those with commercial skills in MOJ in order to do this.

Q79 Ian Swales: Two or three months ago, we had four of the biggest outsourcers sat where you are now. To most people's surprise, they said that they were quite happy to sign contracts with, effectively, open-book arrangements. Are you looking to have open-book arrangements with your future suppliers?

Antonia Romeo: As Michael was saying earlier, we are working on the basis that we want maximum transparency.

Q80 Chair: Are you looking to open-book arrangements? Can you say yes or no to that, please?

Dame Ursula Brennan: I think if we had our contract management—

Q81 Chair: Are you looking for open-book arrangements? It is a very simple question.

Antonia Romeo: Okay, yes.

Chair: Thank you.

Q82 Stephen Barclay: Sorry, Ms Romeo, you were describing the programme director and you were interrupted. Do you want to clarify what you were going to say?

Antonia Romeo: I was going to say that one other lesson to be learned about contract management, of course, is that those who were involved in designing the contracts also have skin in the game when it comes to managing those contracts. When the programme finishes, the person responsible, the programme director who has this commercial experience, will move over and become the director of contract management and rehabilitation services, working within NOMS, for Michael.

Chair: I have three short questions on this area, and then I'm going to Meg: one from Guto, one from Nick, and I have a little one myself.

Q83 Guto Bebb: I want to go back quickly to the questions asked by Mr Swales on local partnerships, and to understand it better from a Welsh point of view. You mentioned seven partnerships.

Chair: Can we come back to you on that?

Guto Bebb: No; this is a very quick one on local partnerships. How exactly were the seven areas agreed on, in the Welsh context?

Sarah Payne: There will be five. South Wales we are dividing in two.

Guto Bebb: Ah, that makes more sense. I had heard seven.

Sarah Payne: That is how Wales Probation operates at the moment. North Wales is divided in two.

Chair: Nick, is this on Ian's point?

Q84 Nick Smith: Yes. I was going to pick up on the issue Ian raised of managing the risk of supplier failure. On page 31, there is a reference to the possibility of there always being a provider of last resort to ensure service continuity. I wondered whether you were putting out a contract for a supplier of last resort, or would it be part of the contract for the suppliers doing the work in the first place?

Antonia Romeo: The fact of the national probation service's existence essentially gives us the provider of last resort, but as I said earlier, we are putting in place contingencies. We would be very happy to come back, perhaps after the competition, and talk to the Committee about what those contingencies have been, and which ones we needed to invoke, but at this point, with the indulgence of the Committee, I would rather not go into detail on exactly what the last resort would be during this phase.

Q85 Chair: I have one other question arising out of what Ian said. You talked about the importance of the voluntary providers—tier 2—having a role. In the Work programme, we found that the prime provider took 10% off the top.

Mr Bacon: 12.5%.

Chair: Was it 12.5% in your constituency? It was 10% in mine, for doing sweet nothing, basically. It was just 10% off the top. They told me to introduce them to Tesco, but my local provider knew Tesco anyway and had been dealing with Tesco for 20 years. What provision are you making to prevent that sort of thing happening in the way that you are designing these contracts? It meant that there was too little money down the chain for them to provide a decent service.

Antonia Romeo: What we are asking providers to do in their bids is to evidence not just the list of people they will be working with, but what these voluntary organisations will be doing and how they will be properly embedded in the service provision. So as part of the quality assessment—this is of course a competition on quality—we will look at the quality of that provision. We expect that those who will be successful—

Q86 Chair: You did not really answer the question. We will come back to A4e, but A4e was classic in this regard in the Work programme. It took off 10% for doing nothing. All the work with Work programme claimants was done by a local charity that had been working in the area for years and years. That was not good use of taxpayers' money and it meant that the charity could not employ as many people and was providing a poorer service to workless people in my constituency. So I want that prevented. All I am asking is are you preventing that in the new form and how?

Antonia Romeo: Yes, I believe we are. Because we will be looking in detail within each of the bids about what the provision will be by the voluntary sector—it is worth saying that there is a team in the Cabinet Office whose job it is to support the voluntary sector on a range of issues. In fact, we have given grants of over £1 million to organisations such as ACEVO and others, to support the voluntary sector specifically in preparing them for—

Q87 Chair: So the prime contractor will not be able to slice off if they do no activity in a particular location?

Antonia Romeo: We are putting in place mechanisms to avoid that.

Q88 Meg Hillier: I am interested first of all to go back to the regional structure and London. At the moment my area is covered by the London Probation Trust, which covers 33,000 offenders. You are doing these small pilots, but it is very different when you are dealing with an area the size of London. I wonder about the value for money and the risk issues as you look at how you will manage London. Perhaps Antonia or Michael could talk about what the situation will be in London.

Michael Spurr: Again, you are right; we have to ensure that we are able to deliver the services, and better than we have been delivering them to date. One of the things that gives us confidence that that will happen is that we are not looking to change the current borough structure of how services are delivered in London. So we will retain from the NPS side the local delivery unit at borough level and the expectation is that the community rehabilitation company—it is a single community rehabilitation company for London—will operate at borough level in the same way. They must be able to deliver the services that are required in London.

Q89 Meg Hillier: That brings me on to who will be working for the community rehabilitation company and how they will be deployed. The Report talks about the previous redundancies and the cost of that. I am very worried about the quality of staff that might well be employed. We have trained probation officers who are being lost and the companies do not have to necessarily employ people to the same training level. That might be a saving for the MOJ, but Antonia, you talked about it being a quality contract not a price contract. Convince me that that is the case because we are already hearing from probation officers on the ground that they are leaving. The Report talks about the redundancy packages, so there is some money spent on them going but there is no guarantee about the quality of the people taking over the role. Making that judgment about where to refer to is one of the most crucial parts of ensuring the system works.

Michael Spurr: Do you mind if I answer that?

Meg Hillier: No, go ahead.

Michael Spurr: The first thing to say is that there will be and we have negotiated with trade unions and others a voluntary redundancy package for use where we have identified surplus staff and it would be available post-June when we have moved to the new arrangements of setting up the CRCs and the NPS, but I anticipate that that will be used primarily for corporate service and support staff; operational staff numbers, I think we will need largely to retain, because the aim is to expand the case load.

Q90 Meg Hillier: Sorry, that is qualified probation officers?

Michael Spurr: Yes. With operational staff, I have qualified probation officers and probation service officers. I absolutely agree with you about the importance of retaining quality staff to be able to do this work. That is why we were involved in introducing the probation qualification framework in 2008-09. Prior to that, probation service officers, who managed a significant case load within probation, were not required to have formal qualifications. That changed and we now mandate an NVQ-level qualification for probation service officers, through to NVQ level 5 and degree level for probation officers.

As we move forward the expectation is that the NPS will continue to operate that probation qualification framework and we will have access to that framework for providers. Providers must say as part of their bids how they are going to retain and ensure the skills required to be able to do the job. We are setting up a probation institute, as well, which will promote professionalism within probation, both for those in the community rehabilitation companies and for the national probation service.

Ensuring that we have the right quality of people to be able to do the job is right, but we may want to change the mix. Changing the mix is right. If we want to end up with more support in the way that Antonia talked about previously, for example—having peer mentors or others—we might want a whole range of different people to support that work, so we need to look at what the right mix is for the range of offenders. It may change, but there will be an absolute requirement to retain a qualified level of probation expertise. We have set out explicitly that we want providers to set out in bids how they intend to do that, with the option of continuing to use the probation qualification framework.

Q91 Meg Hillier: That reassures me a bit, but it seems to me that perhaps there is scope for those providers to decide, potentially, to lower the salaries of their staff—that might lead to people walking—I guess as a cheapie arrangement for the beginning.

Michael Spurr: There is.

Q92 Meg Hillier: They have to decide the mix, or you have to decide the mix. A volume of lower-level people could be cheaper than a certain number of more highly qualified people. To what extent will the MOJ control that quality? They have got to convince you, but they will be looking at the money almost every step of the way.

Michael Spurr: They also need quality staff to be able to succeed. That really will be important and is why the payment by results element is so critical, because if you are not achieving reductions, you will not get the payments. I anticipate that we will get very clear bids. They may wish to change the mix of staff or operate staff in different ways, but I am certain that qualified staff will continue to deliver services. We will monitor very clearly what is being delivered and how providers ensure that they retain the skill levels that they set out in their bids. We are requiring them to set that out.

Q93 Meg Hillier: Will they be on the same salaries?

Michael Spurr: What people are paid will be a matter for whoever employs them. It is not for me to say who should be employed.

Q94 Meg Hillier: So those probation officers will not be TUPEd over.

Michael Spurr: It is an equivalent TUPE, because there will be a share sale and the people will go across on that.

Q95 Meg Hillier: On premises, when the health service has had similar sorts of changes, premises have disappeared into the system. Who will own existing probation premises when the changes have been introduced? What are you doing to ensure that there is no money leakage in the system for the taxpayer? Will they go over to the private companies?

Michael Spurr: They will not go over. There are a range of estate arrangements for probation. Some are directly owned, but most are leased. We have got a whole strand of work going on with estates to prevent the sort of thing that you just described. I have not got all the detail of what level we have got to in the work, but the plan is that when we make the change initially, community rehabilitation company staff who are co-located with national probation staff will continue to be co-located. The probation service itself does not own most of its property, so the issue of transferring that does not arise. It is the MOJ that manages the estate for the probation service.

Q96 Chair: Will the companies pay rent?

Michael Spurr: Yes, they will have to—

Q97 Meg Hillier: Take over premises?

Michael Spurr: Well, we will have to work through that on an individual basis. It would be wrong of me—

Q98 Meg Hillier: So it is worth us looking at it locally—that is partly my point. A4e is my local Work programme provider and is in a bit of a tatty old warehouse on a back road. It is not a great place to go. Ian Swales mentioned his constituents having to travel. In London it is probably less of an issue, because distances are shorter. Are you putting anything in the contract to ensure that there is that kind of minimum level of service? How easy it is to get there makes quite a difference for someone who is perhaps attending reluctantly. You can have it provided cheaper, but with a lot fewer actual premises.

Dame Ursula Brennan: It is perhaps worth pointing out that in a way you have made the point yourself: if it is difficult for people to go there, the likelihood of your securing their engagement with the programme and, therefore, your succeeding in reducing rehabilitation—

Q99 Meg Hillier: Dame Ursula, you are more of an optimist than I am. Most of these companies are still trying to cut the corners. To be fair to them sometimes it is not entirely their fault if they cannot find the premises. My constituency is now so expensive that finding the right premises would be very challenging. We will try to be imaginative if we can help.

Dame Ursula Brennan: One thing we are saying is that we are not suddenly going to make all those property changes happen at once. One thing we want to do is to say that when things start, people will still be co-located. They need time to work out what is going to be the best way to organise themselves. We are not going to precipitate a change in relation to things like estates.

Q100 Meg Hillier: Are you keeping a balance sheet of what you have got and what you are losing?

Dame Ursula Brennan: Yes.

Q101 Meg Hillier: Can you present that to us at some future point? It is quite important that we watch.

Dame Ursula Brennan: We will be able to.

Q102 Stephen Barclay: In what way is the payment mechanism complex?

Antonia Romeo: In what way is it—?

Stephen Barclay: Complex.

Antonia Romeo: Sorry, I wonder what is behind your question.

Q103 Stephen Barclay: The accounting officer in evidence at the start of the hearing said “complex payment mechanism”. Can you explain why it is complex?

Antonia Romeo: Obviously, we have sought to simplify as much as possible.

Dame Ursula Brennan: It looked complex to me.

Antonia Romeo: If you want me to clarify, there is quite a lot of detail that goes into the payment mechanism that we would be happy to go through with the NAO. We have published our PayMech. There is a so-called binary element that is about reducing reoffending in terms of complete desistance. There is a frequency element that is about reducing the overall number of crimes and offences.

This is an area where we listened closely through consultation. We had originally consulted on just having a binary element, the same as in the Doncaster pilot, but many of the

responses to the consultation said we needed to focus on the total number of victims. That is the sort of thing that PCCs said a lot, about the total crime level. Now we have a hybrid mechanism, which is a combination of binary and frequency. Since it has both pieces, I suppose it is not as simple as it might be, but we have obviously sought not to make it over-complex.

Q104 Stephen Barclay: We are getting slightly mixed messages. Part of the USP of this programme is that providers have to prevent crimes from being recommitted. That is a very simple mechanism. The accounting officer is saying that the mechanism is complex. Usually complex mechanisms drive cost and confusion and allow for gaming of the system. I am trying to understand why you, as the SRO, have designed a complex mechanism.

Antonia Romeo: We are, in the programme, spending a lot of time with potential providers, so that they fully understand the PayMech. As I mentioned earlier, we have also had external assurance over the PayMech. We have had people specifically looking at it to ensure it is not “gameable”—you mentioned gaming—and that it will drive the incentives we want it to drive.

Q105 Stephen Barclay: With respect, pretty much all systems are gameable. It is a question of degree and the effectiveness of your compliance.

Antonia Romeo: Is it minimal gaming?

Q106 Stephen Barclay: If you are saying that suppliers can’t game it, that would probably worry me more than your saying that it can be gamed but you are alert to it and this is the mechanism you have put in.

Sarah Payne: May I offer a comment? I had a group of my front-line staff in Wales that sat with the external provider to stress-test the system, to work out whether there were any potential opportunities for gaming, and they tore the thing to shreds, to ensure as far as possible that it was not possible to do that. I know that other trusts have done that as well. I saw the internal report on that and they really worked very hard.

Q107 Chair: Of course, with open-book accounting, Steve, we will be able to see this, won’t we?

Antonia Romeo: Can I say something about that? Everything that we are setting out in the contracts is still subject to negotiation. Sorry to be a bore. It is about what we are aiming for in our discussions.

Q108 Stephen Barclay: Can we have a note on the mechanism? Also, how many pages in the contract cover the payment?

Antonia Romeo: I am afraid that I will have to let you know about that, but rather a lot.

Q109 Stephen Barclay: That sounds pretty complex. Could I ask how you, as SRO, are accountable for that once the project goes live, given that governance is transferred to the agency?

Antonia Romeo: Well, I think I am accountable for delivery of the benefits of the programme.

Q110 Stephen Barclay: Will you continue as SRO once it has transferred from the Department to the agency?

Antonia Romeo: Like many programmes, the programme started with a lot of policy development around Ministers' objectives and there was policy development work. It quite quickly got into contractual, transition and implementation issues so the way we have been running the programme is to have the SRO, who has been with it from the beginning, and the chief executive of NOMS, who will be responsible for delivering the service once it goes live, as an integral part of the programme and responsible for the implementation board.

There will be a transition director, who again, is working with the programme so that we have transition joined into the programme as we design it, so that there is a seamless transfer once we have completed the share sale for NOMS to be able to take over something with which they have been embedded for many months as part of the programme. NOMS will be able to take over the programme and keep it running thereafter. Once it goes live, it is Michael Spurr's responsibility as the chief executive of NOMS to manage the national probation service and to own the contracts with the community rehabilitation companies.

Q111 Stephen Barclay: Sure, but all I am trying to establish is a date when, as SRO, your accountability finishes.

Antonia Romeo: Well, following the share sale there will be a period of mobilisation and subsequently project closedown. By definition, once the programme is finished, the SRO role in live state ceases to exist. The point about being an SRO is that one is worried about the delivery of the benefits beyond that. Michael, as senior business owner, and I, as senior responsible owner for the programme, work incredibly closely together to ensure that the benefits will be delivered during and after the programme.

Q112 Stephen Barclay: Are you familiar with the Committee's criticism in 2009 of the role of the SRO in terms of IT and NOMS?

Antonia Romeo: In 2009? On which particular—

Stephen Barclay: The National Offender Management Information System.

Michael Spurr: The NOMIS programme.

Q113 Stephen Barclay: Have you had a chance to read that Report?

Antonia Romeo: I am sorry, would you mind reminding me of the detail?

Q114 Stephen Barclay: It particularly identified governance as a concern: “The Project Board chaired by the Senior Responsible Owner, was too large to be effective and had little contact with the project team.” It also said that the SRO did not discuss programme financing until almost three years after the start of the programme, that the SRO did not have relevant project experience of training and so on.

All I am saying is that you are the SRO. You have only been in post since, I think, June 2013. Before that you were at the Cabinet Office and before that at the Foreign and Commonwealth Office. You have a very strong CV. I am trying to understand when your accountability will finish as SRO.

Antonia Romeo: Well, first of all, I am very aware of lessons learned from a number of programmes. Apologies for not having read that Report closely. I know about the NAO “Over-optimism in government projects” Report and other Reports. I understand what it takes to run a good programme. I have worked on and run programmes. I began my career in the private sector. Immediately prior to this, I was responsible for the overall portfolio of programmes to deliver MOJ’s reforms.

Q115 Stephen Barclay: Sure, your CV is here. You have a strong CV; I am not questioning that. In terms of the IT systems that are going to be used by the various companies, are you setting minimum standards in terms of the ability to share data?

Antonia Romeo: Yes.

Q116 Stephen Barclay: So, if they are replaced, there will be no issues around that?

Antonia Romeo: Well, I would be foolish to promise no issues. I think I can commit to setting up a system that will seek to monitor and observe and fix issues as soon as they arise.

Q117 Stephen Barclay: How many staff will work on supply and management once the project goes live?

Antonia Romeo: You mean the overall contract management and supply management for this?

Stephen Barclay: Yes.

Antonia Romeo: Overall, contract management will be done in many ways across the Department, because there are the strategic supply relationships as well as being the more detailed contract management. We are still working up with the Cabinet Office team exactly what that contract management will look like. As I say, the programme director on rehab will run that. We are looking to increase significantly the amount of resource that we are putting on contract management.

Q118 Stephen Barclay: So when will you make a decision on that?

Antonia Romeo: We will be having a stock take with the Cabinet Office in the summer, at which point, I imagine, a decision will be made.

Q119 Stephen Barclay: Can we have a note to the Committee when we have some clarity, because the crux of this—and particularly the lessons of past projects—is how well you manage the contracts, particularly in a complex mechanism. How many people sit on the project board?

Antonia Romeo: I would say 15.

Q120 Stephen Barclay: Right. Perhaps the NAO can check whether the number was 15 when the finding was that the project board was too large.

Antonia Romeo: May I say why I think 15 is a good size, assuming that it is 15? We will provide the exact figure; someone might provide it to me while I am talking.

This is a cross-MOJ programme, so Michael is on the board because he provides essential assurance on current business, business as usual and whether the programme will be deliverable and operable within NOMS. You would expect me to have legal advice, HR analysis, finance, all at director level on the programme, at a senior level. I make sure that people show up and speak for their responsibility.

We also have membership from the Treasury and from the Cabinet Office's Major Projects Authority to ensure that they have close scrutiny of what we are doing, of the detail and all aspects of the programme. There are also two non-executives on the board, one of whom is also a non-executive in NOMS, and is a former probation trust chief, and the other is a commercial adviser.

There might be some trimming that could be usefully done, and I would be happy to talk to the NAO about that, but my main drive is to make sure that I have the right people around the table, so that we can sensibly make decisions and not progress within transition without ensuring that everyone is signed up. That relates to your point about not being in touch with different bits of the organisation.

Q121 Mr Bacon: May I just follow up one of Mr Barclay's questions. Mr Spurr, you said earlier, as did Ms Romeo, that you would have a variety of people in the room to make sure that you had the right people round the table, because it was Mr Spurr who would be responsible for managing this set of contracts. Who at the table is sitting there representing the contractors?

I always remember something that Sir David Omand once said—that if you do not have a representative of the deliverer in the room, you are probably not going to make a very good decision. You are not the deliverers, but the contract managers for the deliverers, so who is sitting at that table? Do you have a shadow contract person, who can be there to represent the interests of a putative contractor? How do you do it?

Antonia Romeo: Yes.

Q122 Mr Bacon: And that is who? A consultant?

Antonia Romeo: It is someone on the programme board—the aforementioned commercial non-executive. They are not a member of MOJ staff, but someone with commercial expertise who has been involved in a range of other programmes. They are very focused on ensuring that at every point we do that.

Of course, a lot of work takes place outside the programme board, which is done through bringing in external advisers to look at aspects of it to ensure that what we are delivering is something that the providers in the market will wear. Also, we are in a very detailed and extensive programme of engagement with the market itself. We have people sitting on the programme board representing it, and we are right down there, talking to the market.

Q123 Mr Bacon: To come back to something that you mentioned right at the beginning, you spoke about having the shadow bid by an external assurer, and also said that there was another group that looked at, externally, what the external assurer had done. I take it that these external people are consultants.

Antonia Romeo: Perhaps I can clarify. Early on in the programme, we brought in a company to look at a shadow bid to ensure that what we were proposing to do in the early parts of the design would be workable. They did that shadow bid. Later on, before we went to ITN—

Dame Ursula Brennan: That is the invitation to negotiate.

Antonia Romeo: Sorry, before we went to the invitation to negotiate phase, we brought in an organisation that has helped us, and helped me as SRO, to ensure that the work that we have been producing within the Department has been of sufficient quality, and from the market's point of view as well.

Q124 Mr Bacon: Who are these two organisations?

Antonia Romeo: The first was Ernst and Young, and the second was KPMG.

Q125 Mr Bacon: And how many consultants have you had working on the project so far?

Antonia Romeo: Do you mean in terms of numbers or in terms of firms?

Q126 Mr Bacon: I mean in terms of numbers, in terms of firms and in terms of cost.

Antonia Romeo: We talked earlier about having equality of arms, and there are people I have within the programme who have a lot of commercial expertise. One thing that I am quite clear on is that getting the contracts right is essential. I have also learned lessons from other Government projects, and elsewhere about insufficient assurance, perhaps, of the work that is coming up.

Q127 Mr Bacon: We looked specifically at assurance for major projects on this Committee. The NAO had a Report of that title, so it is not a surprise that there should be a line item of assurance; in fact, it is rather encouraging. I am just interested in how many consultants, how many firms and how much money?

Antonia Romeo: I do not know what the number of consultants is. We have used different types of consultants for different types of things.

Q128 Chair: How much have you spent? Can you tell us that? How much have you spent on consultants? I do not think that is commercially confidential.

Stephen Barclay: It is not commercially confidential if it is not limited to one firm, because the nature of paying a number of firms takes it away from commercial confidentiality.

Q129 Chair: How much have you spent so far on consultants?

Dame Ursula Brennan: The only reason why we are hesitating about this is that, as we have said from the start, you are catching us in flight in this process.

Q130 Chair: How much have you spent so far?

Dame Ursula Brennan: We have spent money on different types of things. In terms of things where we have actually paid consultants to do work in the way that Antonia has described and we have supplemented our own staff, which is not consultants but more—

Q131 Chair: How much have you spent so far, Dame Ursula? Across the piece, how much have you spent so far?

Antonia Romeo: So far, in the last numbers that I signed off, we had spent £9 million.

Q132 Mr Bacon: £9 million so far?

Antonia Romeo: Yes.

Mr Bacon: That is a moving figure, because we are catching you in flight.

Antonia Romeo: One number that is already in the public domain is that we had spent £3 million on legal advice.

Q133 Mr Bacon: Is that separate from the £9 million?

Antonia Romeo: No, within the £9 million, because obviously in designing these contracts we need a lot of detailed, expert professional legal help. One other part of the provision would be for the people transitioning service, which is a group we brought in deliberately to support trusts in making the transition.

Q134 Mr Bacon: Is that part of the £9 million, or is that separate?

Antonia Romeo: Everything I am talking about is part of the £9 million.

Q135 Mr Bacon: Could you send us a note with a description of the type of activity and a number next to it?

Antonia Romeo: Yes.

Q136 Mr Bacon: And also the number of consultants.

Antonia Romeo: Yes.

Chair: Stewart, do you want to ask about that point about consultants?

Mr Jackson: No.

Q137 Mr Bacon: Just one more question for now. Ms Romeo, you said that you were looking to increase significantly the resource going into contract management. How significantly? How much extra cost is that going to incur?

Antonia Romeo: This is all subject to a wider process happening within the MOJ, of refreshing and renewing our contract management expertise, following the cross-Government review into contract management and a review that we did ourselves in MOJ.

Q138 Mr Bacon: Presumably, some of that relates to contracts that are nothing to do with probation?

Antonia Romeo: Well, indeed.

Mr Bacon: I am speaking of the bit that does relate to probation.

Antonia Romeo: Sorry. The reason why I am saying this is that everything that I do within the programme to design good contract management is subject to scrutiny by this new system we have set up. We have not yet had that scrutinised and agreed, and it would be agreed, as I said earlier, with the Cabinet Office as well in its oversight role. So I want to be careful about saying what I think it will be, when we are still developing it, discussing it with Ministers and assuring it within MOJ.

Q139 Mr Bacon: Did you have any training for this Committee session?

Antonia Romeo: I do not understand what is behind the question.

Mr Bacon: Did you have anybody giving you advice before you appeared at this hearing?

Antonia Romeo: I went to one of those one-hour things, which was very helpful, by the way.

Q140 Mr Bacon: I do not know what “one of those one-hour things” is. Does the Cabinet Office run a video for you?

Dame Ursula Brennan: Civil Service Learning runs a programme for people who are appearing before Committees.

Q141 Mr Bacon: So it was not an external consultant?

Antonia Romeo: No.

Mr Bacon: Because there have been people who have paid a lot of money for external consultants. There was a chap from NHS IT—I am not making this up—

Antonia Romeo: I wish I had time.

Mr Bacon: I bet you wish you had the money. There was a chap from the NHS IT programme who spent £74,000 on training before he appeared before us.

Antonia Romeo: I have to say that I am very well aware that every penny I spend on myself, on the programme and on everything I do is going to be subject to a detailed analysis, so I would be foolish.

Mr Bacon: You are doing very well so far.

Q142 Chair: Okay. Let us have Amyas, Richard and Stewart.

Amyas Morse: I just want to ask a bit more about market management, because we have seen in other spaces substantial consolidation and then “too big to fail”. You must have some thoughts about it, and it would be helpful to understand what you are thinking.

Dame Ursula Brennan: It is perhaps worth saying that in relation to the market, particularly in relation to, for example, the engagement of the third sector, one of the things that happened right from the very start was that we went around and looked at other programmes and at some of those issues, and one of the things that Antonia’s team did was to go and talk to the voluntary sector about what had worked and not worked in previous contracts. It was in the light of that that we thought about, first of all, how to try and grow the market so that we got a wider range of people bidding for these contracts, both at the first tier and lower down, and then we thought about how to structure the contracts so that we do not lose that as we go forward. So we did quite a lot of thinking about that.

Q143 Austin Mitchell: I am not ecstatically happy with the merger of Humberside and North Yorkshire, Lincolnshire and York. I always think of them as posh areas, whereas we are an industrial area. They are the kind of areas fit for a Waitrose shop, and yet I see they are bringing a lot more criminality into our patch, with a lot more offenders and ne’er-do-wells coming in than I would have wanted or expected. But that’s not my question.

The police in Humberside are worried about the co-ordination that now exists between the police and local authorities on housing, jobs and the troubled families programme. They are worried that under the new arrangement, that might be broken up, because there is now a split between serious offenders and less serious offenders that will make it difficult to do that co-ordination work. On an ideological point, we are asking public state enterprises—the police, the council, whatever—to work for the enhanced profits of private organisations; if they bring reoffending down, thanks to the efforts of this co-ordination they get a reward for it, whereas the public services don’t.

Dame Ursula Brennan: In terms of what people are working for, all those parties who work together are working, and have always been working, for reductions in offending. That is the reason why they all come together.

Q144 Austin Mitchell: But you will want to maintain the local co-ordination that goes on.

Michael Spurr: It is critical. In one sense, I have responsibility for making sure that the system as a whole works properly, and it cannot work properly without that type of local

engagement. It is one of the reasons why the local delivery units are being retained, so even though the contract package area now includes North Yorkshire, York, Humberside and Lincolnshire, the local delivery unit in Grimsby or Hull will still be there. The staff will still be based there. They will be the ones giving advice to court. The expectation is that one of the roles of the national probation service—my directly employed staff—will be to ensure that there is continued liaison with police, local authorities and others.

Q145 Austin Mitchell: And the split between serious offenders and the rest will not affect that co-ordination?

Michael Spurr: There is a responsibility for me in the National Offender Management Service and for all national probation service staff to make sure that the system works. They will have responsibility—wider than management level—to make sure there is engagement. That combines with the clear expectation that we have set out for community rehabilitation companies. They must engage with local partnerships, and they are required to set out how they intend to do that in their bids.

Sarah Payne: It might be helpful if I explain the arrangements that are going to prevail in Wales. I sit on the All Wales Criminal Justice Board; I am the vice-chair. At the last meeting, it was agreed that the chief executive of the community rehabilitation company will sit on the All Wales Criminal Justice Board. Similarly, there are local criminal justice boards, and people from both the national probation service and the community rehabilitation companies will sit on those boards.

The other thing that I think it is important to remember is that there are a number of pathways out of crime, and delivery of services to help support people through those pathways does not rest within the criminal justice system. If either the national probation service or the community rehabilitation company does not link with housing, health, education and training providers, people who can help with debt and people who can help with mental health and physical health problems, they are not going to be able to reduce reoffending.

Chair: Can we keep it brief? I have a few questions at the end myself.

Q146 Mr Jackson: You raised a very pertinent point right at the end. It is as well to make the point and put it on record that having a hearing on a landscape review when you are in the middle of a potentially complex contract letting situation is probably unhelpful from your point of view. That is an issue for the Committee, but obviously it is relatively difficult for you to be as candid as you would necessarily like.

Before my colleagues get carried away with dead dogs and live cats getting contracts and all the rest of it, can we basically stick to the issue? This isn't about tagging or other issues, it is about the contents of the Report. I do not want to be too focused on policy, but my question is: are you perhaps in danger of allowing past errors and difficulties to overshadow what could be quite a revolutionary change in the provision of public services across all public services?

The social investment bond at Peterborough and at Doncaster has the potential to revolutionise recidivism and the criminal justice system completely. Have you perhaps dropped the ball in not producing robust peer-reviewed evidence of the success of those schemes, and producing it quickly enough to allay the fears of some of my colleagues and others in the wider community about the transfer of some of these functions to non-state participants?

Antonia Romeo: Shall I say something about the evaluation of the pilots? As you know, the final evaluation will come out this summer. We have sought to release data on an interim basis as soon as we felt we had something that was suitably robust. That is not the same thing as having done a really detailed evaluation, which the analysts tell me takes rather a long time. We have sought to put out the evidence and have therefore learned from that—both from the evidence and from what we have ourselves observed in terms of behaviours in those pilots. But obviously we have to wait until we have the final results this summer, because that's how long it takes to evaluate.

Q147 Mr Jackson: If I understand correctly, the idea of a quick buck—a quick win, then flog it off and go—is counter-intuitive to this. The social investment bond and social financing is about long-term commitment. Albeit a very good return, you only get a decent return if you stick around for a significant amount of time—maybe seven years or 10 years—to measure the efficacy of the scheme. I suppose what I am saying is, would you agree that you have not really made the case that this is long term? I am sorry for getting into policy, Madam Chair, but it is pertinent to what we have been discussing. It is risky, but the benefits for the taxpayer—not least the indicative cost of what it costs to keep someone in prison, which is £28,000 a year—will be very significant in the prison estate over a long period of time.

Antonia Romeo: I think my Secretary of State would say that we are doing this to deliver long-term savings to the justice system.

Q148 Chair: That is a political answer. You said you have learned from the past. What have you learned from the Serco-London Probation Trust contract?

Antonia Romeo: I am sorry, could you repeat that?

Chair: The Serco-London Probation Trust contract—the £37 million contract the Department awarded in 2012, where Serco was under contract for supervising offenders on probation doing community work. My understanding is that offenders turned up and found no supervisor on the project; it was difficult to get through to Serco's control centre; there were inaccurate reports; the information used to send offenders back to court was not right, so many cases were thrown out; and the attendance records for individuals who were supposed to be doing community work were wrong. What have you learned from that?

Michael Spurr: Perhaps I should respond, because I was responsible for that contract. The first thing to say is that Serco undertook the contract with London Probation Trust as a subcontractor, and the overall cost of the contract is about 35% less than what we were paying. Serco's performance in community payback in London is better than the performance

under the previous London Probation Trust arrangements, and it is better than the average performance in community payback across the country. That is not to say that things did not occasionally go wrong; things will go wrong in any big operational organisation. It was a different type of contract—it was a straightforward service contract—and inevitably there were teething issues, but overall, my view is that the contract has—

Q149 Chair: Are you saying the information I have been given is not right?

Michael Spurr: I am not saying that things did not go wrong in individual cases. That was the point I was making.

Q150 Chair: More worryingly, I heard that the records of 1,362 people were not updated.

Michael Spurr: There was an issue at one point about updating and IT, but it was corrected. It was not acceptable, but things go wrong and they have to be put right. They were put right. Overall, we have learned—

Q151 Chair: What have you learned, in terms of setting and running a contract?

Michael Spurr: What we have learned are the more general points. We have to be commercially astute and forensic when we look at how we manage the contracts. We must have clear access to data to ensure that we have open transparency about how things are operating—you were talking about that earlier. In terms of our contracts, we have taken the NAO framework and we are forensically going through how we will apply it to contract management in the future. That is part of the work that we are doing as part of the wider MOJ response to improving and strengthening contract management across the Department.

Q152 Nick Smith: Would you indulge me for a second, given that Sarah Payne has come up the M4 from Wales? Sarah, of the witnesses you are probably the closest to the ground, and I am interested in the big picture. Can you tell us what you do to protect or reduce risk to public safety when offenders are transferred between professionals as part of your reorganisation?

Sarah Payne: In Wales, my board agreed to have a proper programme management approach from April last year. We vigorously created loads of work streams and we are delivering to the timetable of the programme. People in my trust have worked with colleagues in the programme on various elements of the new system, including the risk escalation, the payment mechanism and the risk of serious recidivism tools. Expert practitioners from my trust—they are very good in Wales—are working with people in the programme team on those things.

Separately, because we were a PBR pilot—we did not go through it but we learned a lot from thinking about how to approach it, and we did not want to lose the learning—we have run an excellence programme alongside our transforming rehabilitation programme. It is

about quality and improving how we approach a range of issues from our work with women offenders, domestic violence, high-risk offenders and our multi-agency public protection arrangements. There are lots of strands, and practitioners have been involved in all of them.

All those people will be involved in one or another of the new organisations. Quality is at the heart of what I as the chief executive of Wales Probation am handing over to the new system. I have a vested interest in it because I will be responsible for the whole system in Wales.

Q153 Nick Smith: May I come back to the question that I asked Mr Spurr earlier? He talked about minimum movement and co-location when arrangements need to be put in place because there is a risk of serious harm escalation between different providers. How will you deal with that in Wales?

Sarah Payne: I am sorry, could you say that again?

Q154 Nick Smith: When there is a change in the level of risk associated with an offender and they become seen as a serious risk, how will that be handled on the ground by you?

Sarah Payne: By the staff in the NPS and the CRC. First of all, these teams are co-located, so the same people who currently have conversations about risk will still be in the same place. They will certainly be together for the foreseeable future.

I have gone back to the floor a lot of times, including in Gwent, and sat with staff. Conversations happen in the ether around you. Someone might be talking about a case and then someone else says, “Well, I am actually seeing that person’s wife this afternoon—do you know about x, y or z?” I would expect those conversations still to take place, so that when there is a concern that risk is escalating to the point that someone needs to be transferred from one provider to the other, the process laid down will be followed.

Q155 Ian Swales: I have a quick point about people. It is no secret that all these moves have proved pretty unpopular with the staff. My probation service, Durham and Tees Valley, is, as the Report says at paragraph 1.23, one of those turning in exceptional performance at the moment, but I know it sees these changes as likely to reduce performance in the local area. Paragraph 2.33 talks about increasing turnover in staff in client-facing roles and hot spots that are developing in the south of England, for example. Do you know how many vacancies you have in London?

Michael Spurr: Yes. London is the highest: it is about 10% of their total staff numbers. I have got a figure somewhere on the total number of vacancies. The average across probation is about 5% and that is not unmanageable. London is higher, but London has always had higher vacancies, quite frankly, than other parts of the country.

Q156 Chair: Has it increased since the proposals?

Michael Spurr: I have not retained historical data of vacancies in individual trusts. Clearly, we are looking at vacancies now as we go through this transition process to ensure that we do not have issues about inability to deliver the services. Individual trusts would have been managing vacancies before.

Q157 Ian Swales: If it is 10% in London, approximately how many is that?

Michael Spurr: I am trying to remember what London's staffing numbers are.

Q158 Ian Swales: Just to save time, my information is that there are nearly 300 vacancies in London.

Michael Spurr: That would probably be about right. There must be about 3,000 staff.

Q159 Ian Swales: What are you doing about it? That is a lot of resource not to have available.

Michael Spurr: It depends where the vacancies are. London Probation Trust are managing that issue at the moment. We have made it clear that we do not want to see voluntary redundancies or exits. There is ability to recruit and, if it is probation service officer vacancies, we have said that they can recruit and there is no bar on recruitment to allow that process to be managed.

That is one of the reasons why I made clear that there will be no voluntary redundancies before we have looked at the overall position after June, when I have got direct responsibility. It is for London Probation Trust to manage that at the moment and my understanding is that they are doing that and the work is being delivered.

Ian Swales: The other point is that across the country quite a lot of legal challenges are going on to the allocation of people between the various organisations. I know from my trust that there was little option for individuals; it was simply based on their casework on a given date. I am not surprised that there are legal challenges. How many employment tribunals do you think that you will have to go through and how much will that cost?

Michael Spurr: The allocation process will be completed this week, including all appeals, so we will have clarity about where staff are. The process has been set out fairly. The allocation process was agreed through a negotiation with trade unions and we followed that process properly, including the appeal processes. I do not anticipate employment tribunals, or that tribunals would find—

Q160 Chair: Have you any at the moment?

Michael Spurr: At the moment they would be with probation trusts, not with me, but I do not—

Q161 Chair: Are there any?

Michael Spurr: Not to my knowledge. But, if there were, to be clear, we have got a process agreed with trade unions in terms of how we will do this fairly to protect individual members of staff. We follow that process. If we were to go to tribunal, I would not expect to lose cases at an employment tribunal.

Ian Swales: It is a case of watch this space.

Q162 Mr Jackson: I have a brief technical question on multi-agency public protection arrangements. Do you foresee a time when they will be open to payment by results in the same way?

Antonia Romeo: There are no plans to do so.

Mr Jackson: Okay.

Antonia Romeo: It is probably the only thing we can say.

Michael Spurr: Let me give an example because I don't think it will be easy to do that. Sex offenders are generally managed under multi-agency protection plan arrangements. If you look at rates of reoffending by sex offenders, they are very low. You would not be able to have payment by results on sex offender reoffending, but we must manage sex offenders because their risk is so high, and the control risk requirements and responsibilities mean we do that with the National Probation Service.

Q163 Mr Jackson: But you have done a study and looked at the costings of the entire probation landscape?

Michael Spurr: The reality is that those under a multi-agency protection plan are high risk when they do something wrong, but their reconviction and reoffending rates are very low. Life sentence prisoners leaving custody generally do not reoffend, but if they do, there is a significant and proper public response asking why that happened. If reoffending rates are low and in single figures, you cannot have payments by results.

Q164 Chair: May I ask Dame Ursula some questions? Is NOMS likely to come in on budget in 2014-15?

Michael Spurr: In 2014-15, next year—

Q165 Chair: Sorry, 2013-14.

Michael Spurr: Yes, I anticipate that we will be on budget.

Q166 Chair: And are you charging the implementation transition costs to your budget, or are you charging them to AME? I read that somewhere.

Michael Spurr: I am not charging any costs to budget at the moment because we are—

Q167 Chair: The transition—it must have been in your report.

Antonia Romeo: You mean the cost of the programme?

Chair: Yes.

Antonia Romeo: They are in my budget.

Q168 Chair: It is your budget. I'm frightfully sorry; I thought it was all one.

Antonia Romeo: It is all MOJ.

Michael Spurr: I am a separate accounting officer for the agency, so the programme is—

Q169 Chair: So the implementation and transition costs of this programme are your budget, which is separate from the NOMS budget?

Antonia Romeo: Obviously most of the costs of the programme, in addition to those we talked about for consultants, are staff costs so far. These are staff whose job is to deliver criminal justice policy and programmes. I am responsible for criminal justice policy and programmes in the Department.

Q170 Chair: And they are part of the normal DEL budget?

Antonia Romeo: Yes.

Q171 Chair: Good.

You have taken many staff reductions over the deficit reduction programme. This is to you, Mr Spurr, do you see room for greater efficiencies beyond that?

Michael Spurr: In the probation service?

Chair: Yes.

Michael Spurr: It has done a good job in becoming more efficient in the last few years. I am pleased about that, and I have been involved with it in achieving that. There is room for further efficiency in some of the ways I described earlier.

Q172 Chair: That is dealing with the new cohort really, isn't it?

Michael Spurr: There will have to be efficiencies to extend the provision.

Q173 Chair: But do you see it? As the director in charge of NOMS, I can see a little bit coming out of the administrative base, but most of the staff are people working with people. You have cut out many people so far, so I am interested to hear whether you can achieve more efficiency.

Michael Spurr: To date, to be fair, there has been a reduction, and the reduction up to now has been heavier than what was set out in the report on corporate service staff rather than operational staff. The case load for probation over the last few years has reduced, which has allowed us to operate differently, but there is still some way to go. If you take the ratio of staff in community payback, for example, the number of offenders on a community payback project to a member of staff is still something like 1:7. Do I think that ratio could be increased and that we could have more efficiency and still provide the services that we need to provide to the public? Yes, I do. I think there is further to go.

Q174 Chair: Would you be happy to see us judge you on the quality of the service compared with the quality of the current service?

Michael Spurr: The nature of this work means that we will always be judged on the quality of what we are doing. If we get things wrong, the consequences are too great not to be judged on quality of service.

Q175 Chair: The Report also talks about an aggressive timetable, Dame Ursula. How long is the period for getting the contracts in, from invitation to tender? How long has that been?

Dame Ursula Brennan: From the point of launching the invitation to tender to the point when we expect—

Q176 Chair: To when you want to sign them off in October. How long is that?

Dame Ursula Brennan: Between now and—

Q177 Chair: How long is it? What have you given yourselves between invitation—

Antonia Romeo: The invitation to tender will close in June this year.

Chair: That process—

Antonia Romeo: We have said that we will sign the contracts by the end of the year.

Q178 Chair: By October?

Antonia Romeo: By the end of the year.

Q179 Chair: Has that slipped from October to the end of the year now?

Antonia Romeo: No, there hasn't been any slippage. I'm really aware that this is a programme that's in flight, so if possible, I would prefer to commit to the overall commitment we have given for the programme, which is to roll out PBR by 2015.

Mr Bacon: Payment by results.

Antonia Romeo: Payment by results; thank you. We plan to sign the contracts before the end of the year.

Q180 Chair: How does that compare with other contracts? Have you done other contracts? You will have done in the MOD, certainly since I have known you; in the MOD, you will have done some. The Report talks about an aggressive timetable. My concerns are that you are very tight for time and whether you can do all the due diligence that we would expect of you to ensure that we get a contract that delivers both the quality and the value that you want from it in that tightened timetable.

Dame Ursula Brennan: Indeed. That question at key points, when we stop and say, "Are we safe to proceed to the next stage?", has been one of the most critical things about this programme. We reorganised ourselves within the Ministry of Justice to create an assurance function of our own, in-house, because we thought it was such an important function for us to have, particularly given—actually, that was ahead of the electronic monitoring problems. Simply because we knew we were engaged in so much change, we wanted to have our own, in-house, assurance function. My colleagues have described some of the other aspects of assurance that we have had, but one of the things that we have said is, "Yes, we have a timetable that means that we need to keep on, at pace." All of us went to the Major Projects Leadership Academy—the top team—with our Ministers who are associated with this programme, and we talked about the balance between pace and getting on with things and going too fast and not being able to do things.

The thing that we have assured ourselves about is this: at each step, are we confident that we can make that step and be able to proceed and be confident that we can deliver in that phase? That is the way we are addressing this. If we come to one of the steps and find we are not ready, we won't take that step. I am sure that will be enormously unpopular if it happens to be the case, but we are absolutely confident that we know what we need to have in place to be able to proceed, and we can proceed at each stage safely, in the knowledge that we can

carry on at that point. We don't suddenly find ourselves having made a step and not being able to reverse from it.

Q181 Chair: I am very pleased to hear that, and recognise what the electoral cycle may mean here. There hasn't been a letter of direction in any Department, I think, in the whole of this term. I am very pleased to hear that, because it is a tight timetable. If all goes well, good, but this Committee would take a very dim view if one just pushed through, as we did with the aircraft carriers under the previous Government, a timetable that cost the taxpayer money and delivered a poor service. I just want that assurance from you that you will be looking at the long-term interest of the taxpayer in your job as accounting officer.

Dame Ursula Brennan: I think it is one of the most important features of my role, and one of the things I am rather proud of about the MOJ is that we have collected around ourselves, for those of us associated with this programme, a structure that enables us to challenge the programme team—sometimes that is uncomfortable for the programme team—and then to subject ourselves to external challenge, because we really want to be confident that when we make a decision, we are able to proceed on that decision. That was the basis on which we said, “Yes, this is a timetable we want to get on with.” The other thing I would say, though, is this. I go out and visit probation trusts and I meet probation staff, and something that a number of them say to us is, “If we're going to do this, we now need to crack on with it.” Once you have started to get staff to understand, “This is what my new role is going to be,” there are also dangers in delay, and it is really difficult to sustain people's commitment if you try to march them up the hill and then say, “Actually, let's just pause somewhere here, and not proceed.”

The critical thing for me is “Is it safe?” This is a subject on which it is absolutely necessary for us to be safe, and we have a structure that we will be very happy to talk to Amyas and his colleagues about, to assure us around that.

Q182 Chair: Good. Just in terms of the private sector, I know that you are at a tender stage, and you are in the middle of it, but am I right to think that G4S and Serco are not going to play any role? Are they bidding down the line, in the second tier or third tier?

Antonia Romeo: They withdrew, as you know, from tier 1.

Q183 Chair: Are they in the second tier and third tier? That is the point.

Antonia Romeo: No, they are not.

Q184 Chair: There is another thing I was going to say to you. A4e is a company we know well in this Committee. I have just had a letter from the permanent secretary at the Department for Work and Pensions telling me that on another contract—I accept it is another contract—there were 35 cases of alleged fraud investigated. Only five of these cases resulted

in a case to answer. In three cases—I think it is in your patch, Fiona—evidence of suspected criminal offences was identified and referred to the police.

Fiona Mactaggart: Five people—

Q185 Chair: Sorry, I have got this wrong; I am reading the wrong thing. In total, 13 individuals have been charged. Initially nine former or current A4e employees were charged with a total of 59 offences of forgery. Two of the nine were also charged with conspiracy to defraud. Additionally, five former or current A4e employees were later charged with conspiracy to make false instruments, including one also included in the first set of charges. Five individuals have entered guilty pleas to date. Sentencing will follow the trial of the other eight defendants, which is scheduled for 6 October 2014.

The reason I raise that is that we have done quite a lot of work around private providers and we do think that there is an issue about taking past performance into consideration in determining whether contractors are fit for purpose to take on a new area of work. I notice that A4e, in the schedule I saw, are bidding for a number of contracts.

Dame Ursula Brennan: Could I just comment on that, because there has indeed been a lot of work done, which is led by the Cabinet Office, about how we take past performance into account? The Cabinet Office have been strengthening their overview of suppliers as a whole.

Chair: I know they have.

Dame Ursula Brennan: Departments deal with individual companies.

Chair: We know about that.

Dame Ursula Brennan: You know about that work.

Chair: We welcome that.

Dame Ursula Brennan: We work with the Cabinet Office on that to make sure—there are now these people called Crown representatives who work with each supplier; we work with the Crown representatives so that we can make sure that we have got assurance about the levels of past performance, and understanding their relevance to new contracts.

Q186 Chair: I will tell you what is worrying me, if I am honest. You knock out Serco and G4S, for understandable reasons, so another big contractor like A4e comes in, and we are in the position where you have got these big contractors that are too big to fail; and we end up making contracts with them, despite in this case clear evidence—Fiona probably knows more about it than I do—of both forgery and fraud. I can understand your difficulties in trying to find sufficient players in the market, a bit, but it does not feel good, from the point of view of spending public money, for us to say, “Okay, you have been bad boys on this one, but it doesn’t matter; we will ignore that and you can carry on and get another great hunk of public money to deliver another contract.” It just feels wrong to me, personally.

Dame Ursula Brennan: There are two responses to that. One is the point that we were just discussing, which is that we have a regime now in which past performance is absolutely taken into account.

Q187 Chair: So is A4e being considered?

Dame Ursula Brennan: What we would need to do is, there is a formal process that is operated by the Cabinet Office, in which an assessment is made about the nature of the wrongdoing, or the alleged wrongdoing, depending on whatever has happened; and there is a group there, which assesses what ought to happen in relation to contractors—

Q188 Chair: So is A4e being considered? I have seen them on the list among the 30 that have got through to the next stage. It seems to me that you can give me those wonderful words, but the reality is that their past performance, which we have spent a lot of time on in this Committee, does not appear to have been taken into account, because they are too big to fail.

Dame Ursula Brennan: Just to be fair, it is not a matter of whether they are too big to fail; it is to do with the nature of the problem. There are circumstances in which—

Q189 Chair: Forgery and fraud?

Dame Ursula Brennan: Sorry, just to come back to it—there have been circumstances in which there has been wrongdoing at a comparatively low level in a company or in a particular division within a company. The group that now exists within the Cabinet Office looks at that and says, “Is this something which was confined to particularly junior staff, or to a particular part of a company, or is it something that was a pervading problem? We take advice from the Cabinet Office on that issue.

Your second point was about whether these companies were too big to fail and we were too dependent on them. That is the reason, right from the very start, we looked at the market and said that we want to have a diverse market. A lot of effort was put into identifying people who had not operated in this area before or who had done related things to make sure that we have a more diverse market of providers bidding. We believe that we do have a much more diverse market.

Chair: Well, A4e has not operated in this market before but its record elsewhere—

Q190 Stephen Barclay: The Cabinet Office has done a lot of good work and I think it is important to recognise that. I think processes have been strengthened. Ms Romero mentioned the legal advice you have taken, particularly on the contract formulation.

I think the Committee is concerned about three areas: first, the way that penalty clauses work in the contracts. The second area is the ability to terminate, because if you can terminate you can renegotiate. There is sometimes a sense that Whitehall has not managed its

own side of the contract well enough, which then constrains termination or we terminate and end up in litigation.

The third area is the more difficult issue: it is the ability to take sanctions against individuals at senior management level. If you look at some of the problems of financial regulation where no one paid a fine involving the City crash of more than then bonus the preceding year, you can see the constraints that were in place. Quite often there is the sense that large companies will blame junior staff when those junior staff were operating in a culture for which senior managers were responsible and taking quite high individual rewards when things were going well.

Perhaps this is something to work with the lawyers on: if there is a failure, to what extent can we go after the senior management of those firms; to what extent can we walk away from the contract; and to what extent can we penalise? The sense is that some of the contracts to date have not been as robust in those areas as they might be.

Q191 Fiona Mactaggart: Just following up on that point: the A4e frauds were all frauds which were not people lining their own pockets; they were getting bonuses for the company. I think that implies that there is a cultural problem. One way of resisting that, which is very relevant to your area of work, is to ensure that you have properly qualified staff, for example, in assessing risk of offenders. Making sure that that part of the contract requires people to have those kinds of qualification will help resist a culture of performance and achievement and so on, which can create the kind of bullying which, in my view, is what led to the frauds at A4e, which happened in my constituency.

Chair: Okay. We leave that thought with you and we will call it a day. We look forward to seeing you again before Christmas.