

Public Administration and Constitutional Affairs

Oral evidence: Sourcing public services: lessons to be learned from the collapse of Carillion, HC 748

Wednesday 9 May 2018

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Members present: Mr Bernard Jenkin (Chair); Mr Marcus Fysh; Kelvin Hopkins; Dr Rupa Huq; Mr David Jones.

Questions 728 - 809

Witnesses

I: Right Hon. Mr David Lidington MP, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, John Manzoni, Permanent Secretary for the Cabinet Office and Chief Executive of the Civil Service, and Gareth Rhys Williams, Government Chief Commercial Officer.

Written evidence from witnesses:

– [Cabinet Office](#)

Examination of witnesses

Witnesses: Rt hon. David Lidington MP, John Manzoni and Gareth Rhys Williams.

Q728 Chair: Can I welcome this final witness panel to our last evidence session on the lessons of the collapse of Carillion for sourcing and outsourcing of Government services? Could I ask each of you to identify yourselves for the record, please?

Mr Lidington: I am David Lidington, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster.

John Manzoni: I am John Manzoni, chief executive of the Civil Service.

Gareth Rhys Williams: I am Gareth Rhys Williams, Government Chief Commercial Officer.

Q729 Chair: Can I start with one or two preliminaries? We are not going to ask you about another inquiry we are engaged with—which we are near completing—about devolution and Brexit. We have invited you to come along on a different occasion because we feel that the subject merits its



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own session, and when some more water has gone under the bridge there may be more to say.

Can I also deal with one or two other issues? The first is about the aftermath of the resignation of the Home Secretary and the lessons to be learned about the leadership of the Home Office. One of the things that comes up in this inquiry about contracting and managing contracts is how much discretion needs to be exercised by civil servants managing these contracts. What lessons do you think about the leadership and the delegation of authority in the Home Office have been learned from the Windrush affair as a civil service matter rather than as a policy matter?

Mr Lidington: Clearly I do not want to pre-empt the work that the new Home Secretary will be doing to look into the circumstances that gave rise to the Windrush affair and the steps that he may have in mind to address any actual or perceived shortcomings. I think the Home Office, like a number of Government Departments, tries to balance always different objectives that are almost inherently held in tension with one another.

My starting point would be that it is the case with the Immigration and Nationality Directorate of the Home Office, it is the case with the administration of Government contracts around Whitehall, it is the case with various other large public services where there are huge operations involved that drawing the line between a policy matter, which is properly the responsibility of Ministers, and an operational matter is difficult, because Parliament tends to hold Ministers to account, quite rightly, for anything that goes on. Aneurin Bevan once said that with the creation of the National Health Service he wanted to hear the bedpans rattle in his neighbouring—

Chair: The clatter of the bedpans.

Mr Lidington: The clatter of the bedpans in his local hospital. Parliament, with its system of local territorial representation, wants Ministers to be accountable for what goes on in terms of service delivery, but not even the most diligent Minister is ever going to be able to micromanage, or should try to micromanage, contracts of the operation of services, whether that is immigration, prisons, the courts, the health service and so on. I think it is a good discipline for Ministers not to criticise civil servants in public, but to hold their officials to account privately where there are shortcomings.

I think there are a couple of other issues that may be relevant, subject to what the Home Secretary finds, to the particular case that you have identified. One is that we want there to be human discretion in the way that services are run, but we also want rules to be applied fairly and impartially without fear or favour between individual cases. That, I think, is an inherent tension in a system that involves judgments about the evidence in specific cases.



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Secondly, there is also inherent tension between the need to process very large volumes of cases. In the case of the Home Office, you are looking at 2.7 million visas that were issued last year, apart from all non-visa casework that the Immigration and Nationality Directorate was dealing with and people expect those cases to be dealt with in a timely fashion. That means you end up with processes that are designed to cope with very large throughput, and so the challenge for any Department is how do you marry that with the need to be alert and sensitive to the circumstances of particular cases or to indications that things have gone wrong in similar cases that might therefore indicate a more general problem?

Q730 Chair: The relationship between policy and delivery or policy and execution is very much at the centre of our present civil service inquiry, so what you are saying is very germane to that. The lesson that we seem to be learning is that, first of all, policy and delivery are, as you suggest, indivisible, but nevertheless the effective leadership of any organisation depends upon a high degree of trust between those who are setting the goals and those who are expected to deliver. Micromanaging large organisations never works. I wonder if you could say a bit more about how—and maybe the chief executive of the civil service will want to interject on this—leadership is being strengthened so it gives more confidence to people throughout the organisation to exercise their judgment.

Mr Lidington: Certainly John, with his business as well as his civil service experience, will have some helpful insights on this, but from my point of view, having been in Government for the last eight years, I think that trust is key. I am very old-fashioned in my approach to this. I think that Ministers have a responsibility to weigh the advice of officials carefully, to take advice seriously, because these are professionals advising you, but then to take decisions. I have always tried to make it clear to the officials who worked for me that I will never hold it against anybody if they come forward with advice that I find unwelcome. I would much rather they told me they thought I was at risk of driving the car off the cliff than stand there smiling graciously while the car plummeted to the foot of the cliffs. I have also said I would be much less forgiving if I felt that officials of the Department had felt that perhaps something was going on, but had not alerted me to those fears in advance. It is then my responsibility as to whether I accept their advice or not. John, what are your sentiments?

John Manzoni: First of all, I completely agree that policy and delivery are indivisible and I completely agree that trust is imperative in the relationship between those two things, and in the relationship at the most senior levels in Government between politics and the civil service, for instance. You have also heard me say that in my view you cannot do delivery with intellect. You have to have experience to do delivery and therefore you cannot think your way through because you have to have made the mistakes. There is something about years of experience that



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allow an official to make a judgment about what it takes to deliver a particular policy. That is always a tension because you do not want to be the naysayer who said, "No, you cannot do that, Minister, because it is going to take far longer than you think," and that is where the trust comes in. There has to be a relationship of deep trust based on experience that the civil service has done and has delivered. I think that is the journey we are on, to be perfectly frank.

Q731 Chair: Looking at the Home Office, and particularly the Immigration and Nationality Service, as we used to call it a long time ago, before several organisational changes took place in succession, each designed to fix the problems of the previous reorganisation, how much do you think experience and continuity of experience has been valued in all those reorganisations?

John Manzoni: I am not going to make a specific comment about the Home Office in particular, but I will make a general comment about the civil service. As you know, I think that we have allowed ourselves not to value experience. Perhaps the pace of moving around has been too high. That is why we are building professions, that is why we are building career paths for people to allow them to progress and build genuine experience and learn to live with some of the mistakes and learn from those mistakes. I think there are some structural changes that we are making, because my observation is that we have had at certain places in our civil service too much rotation and not enough continuity. That mitigates against the building of deep experience. I think that is a direction of travel that we have to resolve.

Chair: Are there any other comments on this from colleagues? Kelvin Hopkins.

Q732 Kelvin Hopkins: There has been a tendency in recent years, and it started under the Blair Government, for civil servants to become slightly more public figures, and on one notable occasion a Minister in a previous Government publicly blamed a civil servant, which was regarded as a very bad thing at the time.

Chair: This is when the Home Office was told it was not fit for purpose.

Kelvin Hopkins: Indeed. I was thinking of a particular Minister and a particular crisis that occurred. The politicisation of civil servants is a huge mistake and undermines the great principle of ministerial responsibility. Is it not time to perhaps reassert that principle and to say publicly so we all understand that Ministers are responsible and civil servants are essentially discreet figures who provide advice to Ministers, but are not public figures and they do not provide political comment?

Mr Lidington: In general I would agree with Mr Hopkins's point, and any conversation I have had with the Prime Minister, it is an old-fashioned principle and it is one I believe she adheres to as well. There is sometimes a contrast between that and the appetite of quite a number of parliamentary Select Committees to call in named officials for cross-



examination. There is an interesting question for Parliament there as well.

Of course, it is quite proper for accounting officers to report to the Public Accounts Committee—that has been part of our parliamentary constitutional arrangements for a very long time. I think that any reasonable person accepts that in Government, as in any large organisation, from time to time there will be human errors. In my experience as a Minister, I found that my Departments, and that Parliament, completely accept that if an administrative error has been made and an apology is given, that is normally a proper way in which to handle things. I do think it is a good rule that Ministers should not criticise civil servants in public, but I think where something goes wrong Ministers should generally take it on the chin, but then make it very clear within the Department that performance needs to improve.

When I was at the Foreign Office and from time to time mistakes were made in preparing documents to send to the European Scrutiny Committee, the Chair of that Committee was always very swift to remind me if something had been missed. I would always apologise, but I made a habit of calling in direct to the relevant Department to give me an explanation and, more importantly, an assurance that the steps had been put in place to avoid a repetition.

Q733 Mr Jones: Trust of course has to move in both directions. It would appear at first sight that the last Home Secretary's downfall was attributable to a leak that appeared in a newspaper. It would look very much on the face of it as if that leak came from an official. Clearly the official was sufficiently concerned to create the leak in the first place, but it appears to me that was not the professional way of going about seeking to have a concern addressed. Is that a matter that is of concern to you, Mr Manzoni; that an official should have carried out an action such as that? Would you agree that was a gross breach of professional standards, and is the civil service investigating the matter?

John Manzoni: I completely agree with you. I do not think leaks are acceptable under any circumstances. As far as I know, we are investigating, and to the extent that we can get to the bottom of it, action needs to be taken. We need to investigate that properly and understand where and if that happened. That is not an environment that is conducive to getting much done in a constructive way at all.

Q734 Mr Jones: Would you agree that it would shake the relationship of trust that should exist in both directions?

John Manzoni: Yes, I do, so therefore we have to investigate it and find out and understand what is happening.

Q735 Dr Huq: I echo what my colleagues have said. That was not a leak; that was turning on the tap. Presumably it was because these people were disgruntled, but the officials were blamed on the Floor of the House. That



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is why that happened. Yes, trust is very important to stop that happening again. Also, there is the fact that we know the names of people such as Olly Robbins. Before, civil servants were shady figures in the background who would not be known. I do not know if that is the nature of our media, that they are well-publicised.

Mr Lidington: I hope they are shadowy rather than shady. I think it is almost inevitable in the sort of world we live in today, with the degree of transparency and media scrutiny that is part of the environment in which we live, in that individual senior officials do get recognised, named, written about in a way that was not the case a generation ago.

I think what is crucial in this, and the reason why trust is so important, is that Ministers do need to feel that they can receive and discuss completely frank advice from their officials in a private space, so they can make an informed decision and that officials too feel that they can be frank, even brutally frank, with the Ministers to whom they report and for the ins and outs of those conversations not to become the subject of often inevitably rather oversimplified reporting.

Q736 **Chair:** I will just observe two things. One is that there is a tendency to pass off system or cultural failures as one-off personal mistakes, where an individual apology does not really address the systemic problem that might have arisen.

Secondly, in terms of officials and Select Committees, the Haldane report always envisaged that, "Officials would appear before Select Committees to furnish Select Committees with the necessary information" but the innovation was to have Ministers in front of Select Committees. That was not envisaged at all and in a way that things have become reversed.

In terms of the exposure of officials, how concerned should we be that Olly Robbins seems to be constantly paraded in the media and criticised in public, when in fact, as I think we all agree, civil servants, who cannot defend themselves, should not be subject to such personal criticism?

Mr Lidington: My view is that Mr Robbins is an extremely able, very loyal professional civil servant who is working at the moment for the Prime Minister, as he has for previous Ministers in Governments of different political colours, to the best of his ability. He is doing what I would expect.

I think it is worth noting that practically every senior official who holds posts now and who has been a career civil servant will have worked for Labour, coalition and Conservative Governments. I think it is one of the strengths of our system that the culture among officials is such that they feel they can and should be working as hard as they can for whoever the electorate present them with.

Q737 **Dr Huq:** What do you think about the power of the special adviser under New Labour? They were seen as these smart-suited people who take the real decisions and push the civil servants around. Is that still the case? I



am thinking of people like Alastair Campbell.

Mr Lidington: One of the particular questions I remember about both Mr Campbell and Jonathan Powell is that, unusually, they would give them line management authority over officials in a way that the special advisers normally did not get. In general, my view is that special advisers have added to the quality of Government, but a special adviser is not a substitute for professional civil servants. I think it is helpful for officials to have a small team of people within their Department to whom they can go to, to test how a particular idea will be received politically. They know that is important to their Minister, but it is not something that a civil servant's training, professional culture or professional duty under the civil service code can lead them to put to the top of their list of priorities. It is important in engaging the sort of advice and options that a Minister is likely to want to see the evidence of, the arguments that the Minister is going to need to present in Parliament and to his or her own party if they are to steer a policy through successfully. My view is that special advisers have always been at their best when they are working as part of a team with professional officials, but each having their distinct but complementary roles.

Q738 **Kelvin Hopkins:** Very briefly, civil servants have appeared before Select Committees and they are public in that sense, but my experience of them is—and we have two with us today—that they provide information, they provide facts, but they do not make political comment; they do not say, “I think Labour is right and the Conservatives are wrong” or vice-versa, and they do not express political opinions. That is the crucial difference.

Mr Lidington: Yes, I completely agree. It is a matter of public record now, so I am not breaking any confidences, but I remember as a Foreign Office Minister working very closely with our then permanent representative at NATO, Dame Mariot Leslie, who after she left the civil service took a very public position in support of the Scottish National Party in Scotland, but always was absolutely professional in advocating the line of the UK Government of the day for whom she was working in the course of her career.

Q739 **Chair:** While policies remain in flux, does that not rather leave officials who have to conduct negotiations, say, rather exposed?

Mr Lidington: No, I think that an official's job is to present options to Ministers to try to help resolve successfully the discussions that inevitably take place between Cabinet colleagues.

Q740 **Mr Jones:** But that is not the case so far as Mr Robbins is concerned. Mr Robbins is very prominent and arguably has been pushed forward as the face of the British Government in these negotiations. He is a superstar official and is that not the difference? Mr Robbins is not simply there to advise; he is there publicly to represent.

Mr Lidington: I have never yet seen Mr Robbins call a press conference or give television interviews.



Q741 **Chair:** So he is just a Sherpa?

Mr Lidington: He is a Sherpa, and the role that he fulfils in Government is that which is filled by officials of comparable calibre and seniority among other European Governments and among other G7 Governments. I do not think there is anything strange. The role of Sherpas has become more public, not just in the United Kingdom, but in many of the advanced democracies over the last few years. I think that is what we are seeing. Olly Robbins's job is to advise the Prime Minister on European matters in particular, and to then advocate the Prime Minister's and the Government's agreed policies in the course of his interaction with his counterparts in other European countries.

Q742 **Chair:** We will now move on to the main part of our evidence session today. First of all, just in a sentence, what are the main advantages of outsourcing?

Mr Lidington: The main advantages of outsourcing are economies of scale; one company can service many clients; cost discipline from competitive tendering for services; and access by Government to specialist knowledge about particular operations that it would be quite difficult for Government to nurture and develop and maintain in-house. I think it also does provide the opportunity for the public sector to focus on its core priorities rather than the management. To some extent, a lot of outsourcing—not all outsourcing takes this form—things like facilities management, involve taking away from civil servants' day-to-day responsibilities the management of services that are ancillary to the delivery of the key public service that is involved. Those seem to me to be the key benefits of it.

Q743 **Chair:** What comprehensive surveys or studies can you point to that prove that outsourcing gives a better service to the public or reduces the cost?

Mr Lidington: It would be a mixture of surveys and of individual case studies. John.

John Manzoni: A range of reviews have been done—the CBI has done one in 2012; DeAnne Julius did one in 2008; Domberger and Rimmer did one in 2011. Average and in terms of cost effectiveness and cost efficiency, about 20% as a result of that. There is debate and there are variations and it depends upon the kind of outsourcing and such things of course, but in general all of those studies result in somewhere between 10% and 20% perceived benefit in terms of cost efficiency. Then of course we can all find ones that have not worked and we can all find ones that have worked. There is a whole range of things.

Q744 **Chair:** What should the Government not outsource?

Mr Lidington: I think there would be certain duties. Most obviously the provision of policy advice is something that the Government alone can do.



Q745 **Chair:** Although your predecessor did start outsourcing policy advice.

Mr Lidington: I think Government can draw upon external advice, but my view is that policy advice for the most part should be kept within the core responsibilities of Government. I think there are obvious things like the defence area. I cannot see us moving over to mercenary armies. That might be a slightly frivolous point there, but there are certain functions, it seems to me, that pertain to the state.

What is interesting is if you look at other comparable countries we outsource a slightly bigger proportion of the public sector than the United States does overall. It is about 25% and in the US 17%, but the Netherlands outsources significantly more and different countries have made different choices. You will find the Dutch have outsourced more hospital provision than we have, whereas I think we outsource more prisons than the Dutch. This reflects different political cultures and traditions in different nations.

Q746 **Dr Huq:** To outsource or not to outsource, that is the question. How consciously do the Government take a decision on whether to contract out services or not?

Mr Lidington: There is no single definitive measure and I have to start by saying that obviously while the Cabinet Office will provide certain overall structures and ground rules for outsourcing, it is individual Departments and contract holders who are the people with responsibility for taking those decisions. I cannot simply direct a Secretary of State to outsource or not outsource a particular activity in his or her Department.

What will be looked at will be all relevant functions: the capacity of the central local government organisation to provide services in-house and how good is it at doing that? What is the capability and capacity of the market? How confident are we that we can get some good rival providers from outside Government? There will be relevant policy considerations when it comes to some matters. A value for money analysis is a key element of this: do we think we are going to get both better value in terms of cost reduction, but also in terms of maintaining or improving quality of service and being able to draw on the innovative capacities that may come from outsources? Those would be some and I do not know whether Gareth or John want to add to that.

John Manzoni: To complement what David has said, we have a lot of the scaffolding in place, so we have a process to look at any service. We have an outline business case, the full business case, we have the Green Book, which has its five lenses through which to look at things. We have standards, we have operating practice, we have the IPA reviews, and we have Cabinet Office controls occasionally that test contracts as they come forward—we have a lot. Then guided across the top with the “Managing Public Money” philosophy and the rules according to that, we have a lot of the scaffolding in place and it is of course more obvious in certain sectors, in certain services, than it is in others. Where there is a lot of



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competition in the marketplace, it is more obvious. Where we are a unique customer, it is less obvious, more difficult and we have to think harder.

I think it is true to say that in many cases or in some cases it is very hard to price the service into the market the first time around. We have to think about being a bit more flexible about how we do that, because the private sector cannot price it, nor frankly can the Government. I am not saying that there are things that we do not have to learn as we go forward and we are actively in that process, but I think we have all of the scaffolding.

Then the question is: do we have the skills to make good judgments inside that scaffolding to use those techniques? That is what Gareth's team is busy building. I would say this, but it is a journey. There have been some spectacular successes and there have been some spectacular failures in that matter.

Q747 Dr Huq: We had David Walker from *The Guardian* in yesterday. He said it tends to be a bit ad hoc, so it sounds like the scaffolding you talk about is not a standard checklist of things.

John Manzoni: I am not sure it is ad hoc. It is never ad hoc. There are decisions made at each stage, but if we were to ask, for instance, "Does Government want strategically to outsource more or less?", it is quite a hard question to answer. We believe, for instance, that we should be outsourcing the plain, vanilla-type services, the FM-type contracts, the sort of things on which we see a lot of competition. Then every now and again there are bespoke activities where quite a lot of scrutiny is given. Should we outsource a particular service because we believe that the private sector might create more innovation than the public sector? Those take more thought. They go through that scaffolding, they go through those decision points and they are examined and scrutinised and a decision is taken. There are lots of examples of that recently.

Q748 Dr Huq: The Green Book guidance that you mentioned has been reviewed, has it not? Can you explain what changes you would like to see?

John Manzoni: It is five cases: the strategic case, the commercial case, the economic case, the management case—and I do not know the detail of how it is being reviewed. You know, Gareth.

Gareth Rhys Williams: The Green Book covers a lot of areas. Within the procurement and commercial area, it has been updated for latest changes in legislation, latest changes in regulations and better thinking about how we do the things that we are doing. The previous revision, the big effort, was put in place to improve commercial capability and build a central team. That reflects the guidance on how Departments should access those resources in those central teams, and those sorts of things.

Q749 Dr Huq: On Friday I saw the Probation Service in Ealing, in my own



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constituency. It is a Sodexo contract¹, I think, so they are not Crown employees, and within that they are contracting out bits of it to other people. Is that normal? It just feels that the line of accountability is like subletting, which we always thought was bad.

Gareth Rhys Williams: Individual contractors can sublet, as you put it, or subcontract individual parts of other work to specialists, but they retain the responsibility for delivering whatever KPIs Ealing has set. That would be normal. If you are building an extension on your house, you might have a builder who would get in a specialist glazer or a specialist roofer or a specialist insulator, so I think the key thing to focus on is who retains the responsibility for the overall delivery.

Mr Lidington: In the particular case of Probation, it was part of the expectation when those contracts were let by the former Justice Secretary that the regional providers of non-custodial services should subcontract to some of the more locally-based or specialist providers, because you will have a number of particularly third-sector organisations that might be very good at providing services in a particular locality or in difficult areas, such as dealing with people who have a history of drug and alcohol misuse, but that are relatively small-scale organisations that cannot scale those up easily to regional level. Therefore, the idea was that they should be enabled to continue to provide services to the subcontracting structure.

Q750 **Mr Jones:** Would you agree that the market for some services has become highly concentrated? If so, is that a matter of concern to you?

Mr Lidington: Yes. I think it depends on which bit of the outsource market you are looking at. Where there is a concentration is in the provision of complex public services where the Government are the only ultimate supplier of those services, the Government supplier of those services and contracting for them. If you are looking at that market then the top five suppliers have just under 60% of the market by value, and I think it is a perfectly fair comment to say that does cause some concern. I would like that market to be bigger, but if you look at some of the other key outsourcing markets, that for business processes, so things like pensions administration, accounts administration, if you look at facilities management, construction, those are not concentrated in the same way.

Q751 **Mr Jones:** How would it be possible to introduce more competitors into the concentrated end of the market?

Mr Lidington: That is something that I am looking at post Carillion. As you would expect, the Cabinet Office is carrying out an internal review of lessons to be learned from that experience, and I hope to be in a position to say something in public about potential changes at some stage in the next couple of months. That work is ongoing.

¹ Note from the Clerk: The prime contract for London in the Transforming Rehabilitation Programme is held by MTC Novo not Sodexo.



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Getting in new big contenders for that particular market in complex public services is not straightforward because you need companies that have the administrative financial capacity to provide services of that character. Gareth.

Gareth Rhys Williams: I think there are some cases where the provision of the service is bound up with a particular IT system, for example. One way we could think about that, where we have been very successful over the last few years is in disaggregating IT systems. We have been able to split those up from rather monolithic contracts into, in some cases, hundreds of smaller contracts. That obviously allows more SME participation. That makes the market more competitive. I think the same methodology could be used in that complex area if we were able to split the provision of the IT system that other vendors then use for the delivery of the individual services, rather than bundling the two together. That sounds very simple to achieve, but of course we are then procuring two different things rather than one thing and so on. That would give us the ability to have more vendors for each of the sub-parts.

Q752 **Mr Jones:** What are the particular advantages to the Government of transacting these very big suppliers?

John Manzoni: It is a question of where you want to put the point of aggregation or integration. You can imagine you can unpack any particular set of services completely into its component pieces, in which case the point of integration becomes the buyer. That of course puts an additional burden on to the buyer to have that sophistication to be able to integrate that supply chain. If you choose to pass that integration further down the chain, then of course that is when you get into a prime contractor.

As Gareth said, the area where we have been pretty successful, partly because it was not working for us, is IT, where we have unpacked. We had a monolithic single supplier. We have quite consciously gone through the process of unpacking that. That has been technologically enabled, but it is not the case necessarily that you would want in a prison to have a separate contract with the window cleaner and a separate contract with the person who does the floors and a separate contract with the person who fixes the walls and paints; it is an additional burden. It is really a question of where you want to put that point of integration and it is always a balance and it does move and it is always a judgment.

Q753 **Mr Jones:** The Government have a target of 33% of their spend going out directly or indirectly to SMEs by 2020. What progress is the Government making towards that target?

Mr Lidington: It is 2022 that we are aiming for and it is a very demanding target. We made good progress on the previous 25% target. We managed to get just above that a couple of years ago to about 27%. We have managed to push up Government direct spend with SMEs from £4.9 billion to £5.6 billion. That is using 2014-15 as the baseline there,



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and we reckon that overall about a quarter of all Government expenditure with third parties goes to SMEs either directly or indirectly.

Being realistic about this, the opportunities for increasing spend on SMEs are more likely to come through pressure on the subcontracting side than to look at disaggregation of the very big contracts, as Mr Manzoni said. To do that would require Government to maintain in-house a much bigger and more complex contract management function to manage many different contracts with smaller companies than we require at the moment. There are some risks: design work, construction risks, where Government needs a counterparty that has a substantial balance sheet, which would be able to absorb those risks. That is not something that is easily done with SMEs.

Q754 Mr Jones: The Public Accounts Committee, as you know, reported that the Government were essentially unable to take work away from Learndirect because of the level of dependence on that company. Do you have a concern that the Government are becoming over-dependent upon certain suppliers? If so, what are the Government doing to ensure that that does not continue?

Mr Lidington: I think the concentration of the market is in respect of that particular area of outsourcing, which is the supply to Government of very complex services of a kind for which Government are the only buyer. As Mr Rhys Williams said, we are examining ways in which we can seek to enlarge that market. It may not be just looking at UK-based providers. It may well involve looking at reputable providers outside the United Kingdom, but that is something we want to do. We obviously do monitor what is going on with each of our strategic suppliers all the time.

Q755 Mr Jones: Was the Learndirect episode a concern? I think it was assessed as inadequate by Ofsted, yet the Government were unable to take work away from it.

Gareth Rhys Williams: I think the Learndirect case is quite an interesting one, because a few years ago we would not have been aware of that conflict and that dependence. It is a sign of how far we have moved that when that problem arose, we were very quickly able to say, "Hang on. If we take this action in one Department then that will have a knock-on effect in another Department." The Learndirect example is an issue in another way, in that this is—relatively speaking—quite a small business, so where we have pushed business to smaller companies, in that case a specialist, who had succeeded in getting business in a totally different Department because indeed they were a specialist. It is quite a nuanced approach we need to take. We need to be aware where there is a concentration risk and how we have plans to unwind it.

Q756 Mr Jones: Is that work being done? Because it is clearly worrying if you are unable to take work away from a supplier who has been assessed by Ofsted as providing an inadequate supply.

Gareth Rhys Williams: Yes, it is being done.



Q757 Dr Huq: Following on from that, John Manzoni, last week you said at the Institute for Government that in the case of facilities management some companies have been expert in winning Government contracts as opposed to being expert in providing services. It does feel like there are the usual suspects and they are directly cited.

Yesterday G4S had the renewal of the Brook House detention centre and there is the horrific "Panorama" documentary that showed how they mocked and racially abused the inmates there. It just feels like failure was rewarded in that case. It has been renewed for another two years. I just wondered, with regard to your example of winning the contract rather than providing the service, how widespread is that?

John Manzoni: Let me just talk to the general. I think it has been the case that we have been through a period where—and some of it is us and some of it is the market—we have allowed an era where companies have spread themselves very thin and bid low just to win contracts. In part, because we have not had the sophistication internally to do much other than go for price, that has fed itself over a period, resulting in some of the market rebalancing and market restructuring that is happening today.

That has happened over a period and I do not deny that has happened. All the household names are part of that. They have all in the last year or two changed their management, changed their strategies. Pretty much all of them that we are talking about have had a complete change of management and strategy, because between us we have allowed that condition to pertain. That is in part because we did not have the skills inside to be sophisticated enough to spot it and manage it and it is in part because the market structures and the capital markets work to incentivise that behaviour.

Like always though, the capital markets catch up and the capital markets are now correcting it. Some of them have gone belly up and some have gone through traumas, but we are now, I believe, much more sophisticated about that. That is why I made the comment at the IfG, because I think it has been the case. If you ask the new chief executives of all those companies they would admit that was the case and they are now changing that going forward.

That is the essence of why we have to build Gareth and his team and the skills and capabilities so we do not have to rely on cheapest as best, so we can meet the requirements of the Green Book and other things, that the economically most advantageous and the economically most advantageous does not always mean price. I think we have been in that place and I do not think either us or the industry would deny that, but I think we are now not in that place and we are now moving forward in a very different direction.

Gareth Rhys Williams: In the particular case of Brook House, G4S is the incumbent there. As you say, some issues have come out through that "Panorama" programme and there are now two inquiries and lines of



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investigation following on from that. G4S took very prompt action to remove the people who were causing the problem.

I think the Home Office has taken the decision that while they are considering the lessons from the "Panorama" programme and the other two follow-on inquiries, it is better to wait and see what those deliver and then re-procure to match those learnings. That gives us the issue at the moment. The contract with G4S was due to come to an end so we cannot obviously have a situation with no provision, so G4S has been extended for two years while the Home Office considers what final solution they want there.

Q758 **Dr Huq:** If the contract was due to end, should there not have been a proper tender process, a competitive thing with other people?

Gareth Rhys Williams: Indeed there was. That started well over a year ago, but that process had obviously started to click in and the "Panorama" evidence only came out very late in the day, so it is tricky to adjust what you want, what you are asking the market for.

Q759 **Dr Huq:** It has been said to be a temporary renewal, is it not?

Gareth Rhys Williams: For two years, yes, while we re-procure, because it does take that period of time to publish what we want, get bids in from the market, evaluate those bids, allow time for contest and so on and then award.

Mr Lidington: The Home Office has in mind that when they come now for the full-scale re-procurement they may want to have a different spec than before that "Panorama" exposé. They may well want to put into that contract requirements of the contractor to make absolutely certain there cannot be a repetition of those events. Also, they want to require a redesign of the type of service they are expecting from a contractor and it is to give them time to take stock of those lessons and write those into the terms for a new full-scale procurement that the two-year extension has been granted for now and it is an interim measure of success.

Q760 **Dr Huq:** You said the leadership is changing in these companies that have been discredited. What are the Government doing to ensure the contractors they work with are expert? What are you doing from your end?

John Manzoni: I am going to ask Gareth, because he is in charge of all these, but we have a range now of interactions and relationships with these companies that is absolutely not just a transaction or price-based relationship. We have 32 or 33 of the biggest suppliers in Government that handle about 16 billion out of 20 billion day-to-day transactions. We have a whole range of programmes that Gareth's team run to make sure we understand both the current status of those companies, where they are good, where they are not good and we are in a continuous dialogue.



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Gareth Rhys Williams: We have within the Cabinet Office a team that looks after our key suppliers and they are setting a number of actions not only with the top suppliers that John mentioned, but also setting a methodology we are training Departments to use. You mentioned earlier that the *Guardian* journalist said sometimes we come across as a bit ad hoc. I think the only way to solve—

Q761 **Dr Huq:** He is an AO, so he has been on the inside as well, but yes, he is a *Guardian* journalist.

Gareth Rhys Williams: The only way to deal with that is to train Departments in a consistent methodology so that a vendor who may be working with the Home Office on one contract and the NHS on a different contract is seeing the same behaviours from us in the same way. One thing we do with the key suppliers is an annual review where we are looking through a number of corporate governance and social responsibility behaviours. We are benchmarking those vendors against each other and then feeding back where they stand against each other.

Then within each individual contract we are just starting to roll out a standard methodology for training contract managers throughout central Government so that we are managing contracts in the same way so we are picking up issues and then giving them the resolved issue, resolved earlier and in a consistent way.

Q762 **Mr Jones:** To what extent are you concerned that these large-scale suppliers of public service contracts are becoming increasingly unprofitable? We have had evidence, for example, from Professor Gary Sturges, who has pointed out that a survey he carried out in 2017 revealed only one of the five had made a commercial return over the previous five years and the profitability of that one, as he put it, is now being called into question. Is that a matter of concern?

John Manzoni: Yes, it is, because we want a healthy supplier market for the services we choose to outsource. It is a result of the thing I have just described over the previous era where we went for price. They were incentivised to go for contracts. Often they underbid on the expectation that they could come back and we would know no better. I think we are now in a transition. I think we do know better and it is important—and this is the programme Gareth and his team are undertaking—that Government business does not need to make people ridiculously rich, but it needs to be good business and it needs to be a fair price for the risk that is being shouldered by the private sector.

That is quite a sophisticated conversation and therefore it needs to be held by sophisticated people on both sides, and that is the conversation we are now getting to. While we have been building capability we have not been able to get to that real conversation, but I think that is important. Sometimes we transfer the wrong risk; sometimes we price the risk wrong; sometimes we do not transfer the risk we should. All those happen and all those as we go forward we need to do better at,



because I think we have an issue where private companies are making choices because they are finding they are not being remunerated or they are not making money and they are taking write-downs and that is what has caused this re-evaluation.

Q763 Mr Jones: Has Government behaviour really changed? We have had evidence from a number of witnesses about the issue of whether price is more important than other factors in awarding the contract and we have had very few instances of contracts being awarded on anything other than being the cheapest tendered.

John Manzoni: There are certainly also some contracts where we have gone back and repriced where we had the pricing wrong. We have to be a bit careful because we have to stick by European procurement rules. We have to be a bit cautious about that, but there are several I can think of where a renegotiation or a repricing has taken place where we have had it wrong. That is in the complex spaces.

Gareth Rhys Williams: This is quite a complicated area, so if I can just add to what John was saying about your previous comments about overall profitability, we get now through the open book contracts we have let—which are about one third of the total with our strategic suppliers—and we can see line by line how they deal with their individual contracts. It is not in our interests for any one individual contract to be loss-making because vendors will trim their costs to try to make it profitable and that may result in a degradation in service, which is exactly what we do not want.

We should try to price things in a fair way that reflects the risk and the investment a vendor is putting in. That is at the individual contract level. There are examples where vendors are losing money on individual contracts and we need to work with them either to reprice it or to change the spec or work with them in one way or another. That is the role of the central suppliers team to do that.

However, there is profitability and there is profitability. You will have seen in the papers in the last few months, as we have been in public company reporting season, that a number of our vendors have made huge write-offs that have pushed them into a situation of net loss. Those are write-offs not always, but typically, on goodwill where they have acquired a business that they have discovered later not to have been worth quite what they paid for it and they have written off the balance. There is not much we can do about that, frankly, apart from urge companies perhaps to stick more to their knitting and be more careful about their acquisition strategy. I think we can influence part of that profitability.

The other thing I would say is that I was at a very interesting dinner with a lot of private sector chief procurement officers and they too recognise that fact, that they have been letting contracts they know to be loss-making for the vendor and that has resulted in problems for the vendor. This is not a public-only problem. We have a duty to buy at best value.



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We should not be picking the most expensive bidder. I think you would rightly have some issues with that. We should look, as John says, for the most economically advantageous tender, taking into account the quality factors as well as price.

That leads me on, if I may, to my final point on this. We need to get better at assessing the quality factors. I think there are no bids I have seen where price is the only factor. There are always a number of quality factors that are taken into account. The problem arises, and it is in a relatively small number of cases, but they are highly visible and the vendor base is right to bring them to your attention. If we are not acute enough or precise enough about how we evaluate quality, such that each vendor gets eight out of 10, for example, even if the quality scores are 80% of the marks, if they all get eight out of 10 on them, then price is the only factor where there is bound to be a difference because someone would bid mathematically a different price. We have to guard against that. We have to improve our skills differentiating on quality so that price is not the determinant.

Mr Lidington: The key point there is how you apply precision and a common standard of judgment to qualitative factors in a bid. Part of that approach was important in the social value Act of a couple of years ago. Those assessments that have been made of its application so far suggest it is patchy. It is having some effect, but it is not having a transformative effect, it is clear to say.

One thing we are doing post Carillion is having another look at how social factors can be taken into account when awarding contracts and DCMS is consulting on a new civil society strategy that may lead on to a formal review of the social value Act. This is something we are actively looking at as part of our lessons learned process. We hope to say something about it a bit later this year.

Q764 **Mr Jones:** In a market such as this, where the Government are virtually—if not actually—the monopoly purchaser, to what extent do you think Government have a market stewardship role?

Mr Lidington: We do have a market stewardship role, although I would just add a word of caution in terms of saying that the Government completely dominate the market as the sole purchaser. That is true for that part of the outsourcing market I mentioned earlier—that is the concentrated part—but if you look at construction, facilities management, business service outsourcing, IT, these are things that private sector companies have been doing for years. These are things that different Governments throughout the world have been doing, so there are international markets in which companies such as Serco and Sodexo are competing.

I can remember talking to Mr Soames, who gave evidence to you yesterday, about his company's business in Australia and how they were trying new aspects of prison design in the State of Queensland. If you



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look at Carillion, its difficulties arose not out of their bread and butter Government facilities management work or private sector management work. It arose out of some construction contracts and to a great extent on those that involved overseas clients of Carillion. John, do you want to come in here?

Q765 **Mr Jones:** Before we pass on to Mr Manzoni, you did start by saying you recognised there was a market stewardship role and I think you then corrected yourself to the extent that the market might not be—

Mr Lidington: I do not see the two as contradictory, but I would say see it in context.

Q766 **Mr Jones:** In domestic UK terms, clearly the Government is an important purchaser and you recognise there is a market stewardship role. Who do you think in Government should be responsible for undertaking that role?

Mr Lidington: That would depend on which aspect of the marketplace you are looking at. It is important within Government that we separate the market stewardship roles from the people who make the decisions about the award of contracts. For example, if you were to look at social care, the CQC will act as the regulator and the guarantor of quality to the public, but it will be individual local authorities who will decide how to award contracts. The system—I look to Gareth to describe it in more detail—within central Government again has a very clear distinction between the contract-awarding function and the market stewardship functions wherever in the state those happen to be held.

John Manzoni: We cannot just be blind and let the market do what the market does. That is why in Gareth's team we have the big suppliers to Government. There is a proportionate knowledge base built inside Government. We do want to know and I think we should know the quality of the balance sheet and what they are doing across their business because we want them to be a reliable supplier to Government and they want us to be a reliable customer.

I think to that extent we are in a dialogue with all our main suppliers about their business. We have actively participated in the conversation that says, "Look, guys, you are spread too thin. You cannot be good at everything. You have to pick some things to be good at." That is what we are seeing in the marketplace begin to happen and I think that is going to be very healthy. To that extent we are already doing it a bit.

Gareth Rhys Williams: As a supplementary to that, I think there is a distinction we need to make. We are a customer. We are not a director of these businesses and we are not a shareholder. As our share of a company's business grows, if we are 10%, 20%, 30%, 40% of that company's business, I think the stewardship questions get sharper and sharper and sharper. That is why we need to take a central view as our share of the company's business grows. We have to be more careful. We have to have better contingency plans in the event of a failure, as we did



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with Carillion. But we are still never a director. We are not the shareholder and I think that is a grey line we must be quite careful with.

Q767 Chair: This is a Carillion point, is it not, because contracts continued to be awarded to Carillion because we were told by the Government, “You are damned if you do and you are damned if you don’t”? The award of the HS2 contract, for example, could be regarded as an act of market stewardship rather than hitting them in the solar plexus at the crucial moment that would have brought them down. To that extent, the Government is not just the customer.

Mr Lidington: On that point, Chairman, since you have raised that, one of the lessons I have drawn from the Carillion experience is the contingency planning for the most part did work effectively and was a tribute to the civil service that there was no interruption in the provision of key Government services involved. But we ought to have anticipated sooner than we did the sort of questioning there would be about the public sector contracts that were announced as having been awarded to Carillion after the July 2017 profits warning. Of course three of those were Ministry of Defence contracts that had been signed and sealed before the profits warning of July 2017, but that Carillion chose to defer until later on.

Two or three of the others were Network Rail contracts that were simply variations upon existing contracts they had with Carillion. The HS2 ones you rightly identified, Chairman, as the key ones. When HS2 Ltd did the work on these they did two things. They tested the joint venture structure in the knowledge of the profits warning from Carillion, including getting firm guarantees from both Kier and Eiffage, as the two other partners in the joint venture, that they would come forward and take up Carillion’s responsibilities were anything to happen to Carillion. Then HS2 Ltd did go through a series of quite detailed tests on the financial capability of Carillion. We can certainly let you have the details of those if you want.

Q768 Chair: I am intrigued by the long answer you have given me in response to the point I made. Can we just acknowledge—as you are a practitioner, Mr Manzoni, in this art—that where the Government has such a large proportion of the turnover of these companies, there is a de facto guardianship role in the way the customer behaves and capricious behaviour by the customer would destroy all these companies? Therefore there is a market stewardship role for the Government as the customer.

John Manzoni: As the Minister said, they are separated from the customer in the contract awards. They are not the same. They are not done in the same place. But you are right, of course there is, and in that case we were not making judgments because we could have precipitated that problem a lot earlier.

Q769 Kelvin Hopkins: The Treasury Green Book says the risks should be borne by the organisation that is best placed to monitor and manage it. I



have to say I find that statement somewhat opaque, but how successfully do Government Departments implement this guidance?

Gareth Rhys Williams: I think that statement is absolutely spot on and it is reflected in the supplier code of conduct. This is not just a question for how we deal with our suppliers, but how our suppliers deal with their subcontractors, so risk needs to be in the right place. I am sure you noticed there are plenty of examples where there are problems with risk transfer and they typically, not exclusively, are in the area the Minister referred to as the complex outsourcings.

To take an example—and it is germane to one of the people in front of you yesterday—with the housing of asylum seekers, the risk there that is very hard to quantify is: how many asylum seekers will the country see over the life of the contract, which I think is five years? That is a tricky number to get right and the officials who let that contract initially would have taken plenty of time to think through what was a likely range of asylum seekers we would be asking the vendors to find housing for. In the event, the number of asylum seekers turned out to be much higher than had been predicted. That is a good example of how, when we see generation two of that, that risk has been more shared because it is very difficult for a vendor to guess that number, but frankly, it is also quite difficult for us to get that right. But in the event that we are wrong, that risk should lie with us rather than with the vendor. That is a good example where the rubber hits the road.

Q770 **Kelvin Hopkins:** Who is responsible for monitoring the implementation of this guidance?

John Manzoni: Usually the contract holder in that case. The person who has let—

Q771 **Chair:** That would explain a lot.

John Manzoni: It is a very generous statement and of course it makes sense, but it is also very difficult to get right, especially when you are pricing risks that are unknown and we do sometimes impose a condition on a contract, either from a different part of Government or some exogenous thing happens that in no way could be anticipated by the business. It is always a judgment. People are taking commercial risks and sometimes things happen and sometimes they do not. But if we get it wrong they will make conscious and rational commercial choices and say, "We are not going to do that anymore. We are going to go away and do something else."

We have to be alert. There is no formulaic answer to this. It is always a judgment and it comes back to the skill and capability of the people who are letting the contract in the first place. To some degree we are a little bit constrained and I do think this is a bit of an issue, because in the event that you have it wrong we are a bit constrained as to how we can put it right. That is about procurement law and all those things and the propensity for JRs and such things.



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We have to think about that going forward, but there is no question that a more sophisticated relationship says if we have the price wrong, either if they are making too much money or they are not making enough money, then we ought to be able to go and get it right.

Q772 **Chair:** If I can just interject, we heard yesterday about a contract that was let where the contractor had to take on the risk of the Government changing the regulatory environment.

John Manzoni: That is, I think, not right.

Q773 **Chair:** What is in the minds of the officials when they decide it is a very clever thing to get the contractor to take on that risk and who is supervising them or counselling them about risk management and risk transfer?

Mr Lidington: The principle should be that where there is a specific change in law that bears down on that contract, that should be the Government's risk. But a general change in law or policy that applies to anybody doing business in the United Kingdom is part of the general risk of doing business in the United Kingdom, so anybody doing business in the United Kingdom has to live with and provide against the risk of the Government, whoever is in Government, making changes to general taxation or to national living wage levels.

Q774 **Chair:** That was a very good answer, if I may say so, but how many officials letting contracts would be ready with that answer? Because it is the first time we have heard such a capable and sensible answer.

Mr Lidington: Part of the work that John is leading in Government about developing the professional capacities—

Q775 **Chair:** That suggests that this cannot be solely left to the people who are letting the contract. They need some supervision and guidance on this matter.

John Manzoni: We have all sorts of things. Gareth's team have a set of standards now. We are building those things and again we are putting the systems and processes in place to help a distributed system to do this.

Q776 **Chair:** In Carillion, that prisons contract was clearly transferring a ludicrous amount of unknown factors to the contractor, which other contractors have told us, "We were never going to do it at that price because—" and yet—

John Manzoni: That is why it is now in-house.

Gareth Rhys Williams: I was going to make the point that John made. Back to what Mr Hopkins is saying, you criticise one type of agreement. There is plenty of explanatory guidance beneath that, there is an annex, for example, that talks about how risks should be chopped up and allocated to different parts and we are busy updating that, then revision to that is due in the next few months as well. This is a live area.



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On the law point, it is tempting to think of Government as one unitary monolithic entity. If I was running one of the companies I used to run, if I was letting an FM contract that would also have the responsibility—say if the national minimum wage went up or the Government changed the rules on vehicle emissions or something like that—and that meant the vendor had to change its fleet, that would have been a risk to the vendor. This is not an issue that is a public procurement issue; this also applies to private contractors. It depends also how long the contract is.

What we have to guard against is if there is a change to legislation made by one part of Government that a different part of Government or a local authority could not conceivably have anticipated that. This is where it gets quite complicated. We have to rely on the central procurement policy notice that we push out many a year to go right through the system explaining how this piece of legislation should be interpreted or how that procurement regulation should be applied. It is not a free for all. There are systems and methods that are passed down.

Chair: For the sake of the Secretary of State's diary we must speed up the process of this evidence session. Shall we move ahead?

Q777 Kelvin Hopkins: I have to say, I am a sceptic about the whole concept of risk transfer and I am not alone in this. The Local Government Association made it clear to us that in local government procurement, for example, it is always the local council that is responsible for the service, and that accountability follows their statutory duty to perform the tasks. Is that not a clear argument that risk transfer is a myth in many cases?

Mr Lidington: I do not agree, and local government live on their statutory duties, just as it is central Government's duty, for example, to make sure that there are prison places that are available to the people whom the courts send into custody. But how a particular service is provided is a matter that can be dealt with either through an in-house provision or through contracted-out provisions. What we are talking about is the transfer of risks that are involved in the operational delivery of those particular services.

John Manzoni: Sometimes the cost of the delivery of those services we give and sometimes that is absorbed by a contractor, not by the property.

Q778 Kelvin Hopkins: But in the true private sector, a corner shop or a fast food outlet, risk is entirely borne by the entrepreneur, by the business. Another question was raised by Professor Haslam, who provided analysis to our inquiry, shows that major outsources make less profit and less cash and provide more payments to shareholders than the average FTSE 100 company. The focus is on providing any cash to the shareholders rather than on other aspects, if it was a truly independent private enterprise. Isn't that rather worrying?

John Manzoni: It may well be the fact, in which case it is a capital markets problem and what has happened to most of them is that the



shareholders have been wiped out in the last five years. Any leadership, if a manager of a company gets the balance between the cash in and the cash out or is paying shareholders, they are going to run into trouble. Many of these companies probably have run into trouble in the last few years. You have seen a whole bunch of these structures go through.

Kelvin Hopkins: It is frontloaded. The property goes out early.

Q779 **Mr Fysh:** Can I ask about a specific example? When you were Secretary of State for Justice there had to be an adjustment in the contracts for the Transforming Rehabilitation programme. That was to more accurately reflect the cost of frontline services. Why did the Ministry get its costs wrong in the first place?

Mr Lidington: It is a question that it is fairly put not just to the Ministry of Justice, but to contractors at the time who made bids on the basis of assumptions that very roughly 80% of costs would be variable and therefore could be covered by payment by results and only 20% roughly of costs were going to be fixed. The actual ratio turned out to be almost the exact reverse of that: 80:20 the other way around. That was due to things like more offenders being judged as higher risk and therefore retained by the National Probation Service than had been forecast at the time of the competition.

In addition, the number of community orders fell and the requirements that were attached to sentences by the courts changed. For example, you saw a reduction in the number of people who were being released on tag. You saw the courts not making as much use of conditions-related orders to do with mental health treatment or drug and alcohol rehabilitation treatment, as had been envisaged. Certainly Mr Fysh will appreciate—I have a short brief of this in front of me—I speak also very largely from memory. This is something that my successor Justice Secretaries have to contend with.

My memory is that when this came to me, which was in the summer of last year, we were in the situation where the revenue that the rehabilitation companies were receiving as a result of payment by results, plus that element that was a fixed fee, was not covering even their core running costs. The advice came—and I accepted that advice—that we should vary the contracts to pay more accurately that which reflected the actual balance of costs within those contracts, but that doing that still left the payments out of the Ministry of Justice to the CRCs well within the budgeted sites that had been provided for. It did not take the Department near to breaking the limit on the budget that it was working within. It had been paying a lot less out to the CRCs than it had expected to do.

Q780 **Mr Fysh:** That decision did not go through a competitive tender process the same way.

Mr Lidington: No.



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Q781 **Mr Fysh:** How did you assess whether that was value for money in that context? Was it just simply a function of fact that it was not more than budgeted that meant that that did not have to happen?

Mr Lidington: I am speaking from memory, but we worked on the basis that we had an element of flexibility built into the existing contractual arrangements that allowed us to do this. It would not have been possible simply to re-procure without seeking early termination of those contracts with all the dislocation and uncertainty that would involve. My judgment, as the Secretary of State responsible then, was this was the best means available to me of ensuring that those non-custodial services continue to be provided.

Q782 **Mr Fysh:** Looking more generally at the system, how often do the contracts need to be renegotiated in similar ways for price because of these issues? Since 2010, how many times would we have had to do this?

Mr Lidington: Are you talking about probation in particular or generally?

Mr Fysh: No, in general.

John Manzoni: I do not know the numbers, and if necessary we can come back to you with the numbers. They tend to be the areas that, as Gareth has described, are more complex outsourcing activities, the more complex areas where we are doing something. In this case, for instance, we would set up 21 CRCs to do that service. They were brought together, so the pricing of the service being provided is not easily transparent; it is not market-based, necessarily so.

Where we get that wrong, I think we should not be ashamed of going and putting it right. In this case that is what we did. Are there some things that we might choose to do differently such as pilot it, like have a mixed model in it so we can balance? It is never a good idea to outsource something that we do not understand ourselves and that is some of our early lessons that we have to do better on going forward and that is fine. There are a few high-profile cases where similar events have happened: the asylum seekers that were mentioned, asylum housing contract is another one. There are a handful of things and they tend to be in the more complex area.

Q783 **Mr Fysh:** Just coming back to how you move away from the pure transactional price decision mode, you mentioned more qualitative assessment earlier and you just mentioned pilots. Are there any other specific technical things that you would be looking to change that mode of appreciation of a price?

John Manzoni: There are a couple of things. It has already been mentioned, there is the social value Act and we have a balanced scorecard, which deliberately says, "Monitor some other things other than price." They tend to be a bit more qualitative so they tend to be a bit harder to quantify and to put into formulaic results. There are some of those things, but there is also the process and that is where the pilots



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come in. We have prisons, a great example where we have some in-house and we have some in the private sector. That is a good model because we can monitor that going forward. There are both process things and there are some deliberate things that we have done in the marketplace to allow us to take account of other factors.

Q784 Kelvin Hopkins: Treasury data provided to us has shown that PFI schemes have virtually declined to zero. They are obviously a dead duck. What is the kind of project for which the Government still believe PFI and PF2 might still be appropriate?

Mr Lidington: As Mr Hopkins knows, we have reformed the PFI model and we think the PF2 approach provides better value for the taxpayer. Broadly speaking, the project is only approved for PF2 if it represents better value for money than using public capital investment. That calculation has to take account of the cost of risk transfer. Only one project for PF2 was approved in 2016 to 2017. That reflects in part the very low level of interest rates there are at the moment. It is something different Government procurers of contracts seek services—keep an open mind on them. They look at, they will test the merits of in-house as against PF2 bids and make a value for money judgment accordingly.

Q785 Kelvin Hopkins: The National Audit Office has said there are very few differences between PFI and PF2, so is the difference between the two programmes purely cosmetic?

John Manzoni: There are some substantive differences in terms of how the valuations are done and the commercial evaluations are done on sharing the refinancing gains and that sort of thing. There are some differences here. In addition, the early PFI contracts, because they tend to be billed and operate, were probably a little rich and there has been a large amount of money taken out through an operational review of PFI so that the PF2 structures are better value for money in that sense. Several billions is the number that has been taken out from an operational view, which is to make sure that the operations, after it has been billed, are done as effectively as possible. There are some substantive changes to this.

If you are in the private sector, oftentimes you use off-balance sheet financing, which is what this is, because of the discipline and rigour that others, third parties, put your project through in order to lend the money. Sometimes it is used to force project disciplines, which are quite rigorous and demanding and that is not a bad idea either. I have done that myself in big capital investments. Sometimes it is good to use project finance because the banks and the people lending the money to it are very rigorous because it is their money and it allows an exogenous party to look at the disciplines that we build in that particular project. There are all sorts of things in here.

Q786 Chair: I am confused about how under PF2 debt, if there is a restructuring, you cut the gain for the Government to 30%; how is that in



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the public interest?

John Manzoni: In that case it was in order to make these more acceptable to the lenders.

Chair: No, it was in order to keep the debt off the public balance sheet.

John Manzoni: All of these are to keep the debt off the public balance sheet. The entire PF structure is to keep the debt off the public balance sheet. That is where we start.

Q787 **Chair:** But how is it in the public interest to forgo some of the proceeds of restructuring just to satisfy some accounting rule?

John Manzoni: I do not think it is an accounting rule. It is to do with whether or not anybody will lend to it at that point.

Q788 **Chair:** Do you think it is because the lender will not lend because it appears on our balance sheet?

John Manzoni: No, it is to do with the lender's propensity to want to do those projects and want to do that, in that case.

Q789 **Chair:** That is not our understanding. Our understanding is that the proceeds of refinancing were reduced from 50% to 30% in order to ensure the debt remains off the balance sheet of the Government.

John Manzoni: That is certainly true. Therefore the additional 20% goes somewhere else. It does not come to the Government; it goes to the lenders.

Q790 **Chair:** Why is that in the public interest?

John Manzoni: Because if you want to have off-balance sheet projects and nobody is lending and nobody is prepared to do it because they cannot take the benefits of refinancing, then you will not have any balance sheet projects.

Chair: I am certainly not convinced by that.

Gareth Rhys Williams: Depending on what you want to do, a refinancing is not the ideal state of affairs. The question is when parties are thinking about entering into a PF2 what will they bid initially? If the refinancing terms are very harsh, they will bid differently from how they would do if they think in the event of a refinancing the outcome is going to be different.

Q791 **Chair:** I will not spend more time on this now, but the NAO were very clear that they did not think this was in the public interest. Can we write to you about this and get a definitive answer?

Mr Lidington: That is probably best; we can go into more detail then.

Q792 **Mr Jones:** I would like to touch on the issue of capability a bit further. We had evidence from Sir Amyas Morse, who said, "I think there are a lot



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of areas where Government does not have the capacity to do anything but outsource". Then he went on to say, "Not only that, but in many parts of Government, the capability of even acting as a prime contractor is not necessarily there". I understand, Mr Manzoni, that you are addressing that issue of capability at the moment. What are your proposals to improve that?

John Manzoni: That is quite a broad question. The answer to your question is that we are absolutely trying to address it. It is fundamental to a different structure of how we can attract people from the outside bringing the experience that I have described, how we can build the experience that I have described in civil servants. To do that, we have constructed a set of functions across Government, whether that is project management capability, technical capability, so when we are disaggregating those IT contracts we need more technical capability inside Government, so we have to have a place to house that technical capability; contracting and commercial capability in Gareth's organisation.

These are the changes that we are putting across Government, but it is not just saying it; we have to change young people's career paths so it is attractive for them to stay in a place and gain that experience. Sometimes we have to change remuneration structures inside Government because we cannot attract because in all of the things that I have described, they have to have a market value in addition to a value inside the Government, and that is quite complicated. We have done that in commercial, we are doing it in technical, we might have to do it in finance and other areas where we are seeing particular shortages. We are having to fix up quite a lot of the underpinning mechanics of how the civil service is constructed in order to attract these skills and build the skills that will help us do the things that you have described.

Q793 **Mr Jones:** Do you have a large number of vacancies for these roles that you mentioned?

John Manzoni: Most recently the Brexit requirements have put quite a lot of pressure on the system, so we are expanding by 5,500 people, not all in those skills, but 5,500 in the last year or two on the Brexit issue. The answer to your question is yes, we have to continuously build those. It is not as if the system is sitting there having these vacancies. We have to inject these skills into the civil service. Gareth will be able to describe his vacancy rate in commercial.

Q794 **Mr Jones:** Is it possible to let us have a note of the number of vacancies that there are at the moment?

Gareth Rhys Williams: Within central Government we have been going through what is called a blue-printing exercise with each Department, assessing what is the right commercial structure for that Department, given the workload they anticipate. The total central Government headcount in commercial is just over 4,000, and at the moment we have around 300 vacancies across all grades, so sub-10%, which is probably



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not too bad. I am trying to fill those, starting with the more senior grades, where we have a central employer and a central recruitment hub that is filling those central roles. We are dramatically better placed than we were a couple of years ago. It is probably unrealistic to assume we will ever get to zero vacancies just in the nature of it.

Q795 Mr Jones: Each individual departmental accounting officer is clearly responsible and accountable to Parliament. As chief commercial officer, how do you ensure that there is a degree of co-ordination of the approach that each accounting officer takes?

Gareth Rhys Williams: Each Department has a commercial director and those work for the Department of Health, the Ministry of Justice or wherever, but those commercial directors report to me functionally. We meet monthly. We have any number now of working groups of staff below that commercial director. There is an IT interest group, an FM interest group that are working jointly on the standards and working jointly on the benchmarking that we put in place across Government. We are just shy of 2,000 people now in the knowledge hub, which is a secure social network. There are 50-odd interest groups on that. That encouragingly includes colleagues not just from central Government, but from arm's length bodies and 50-odd councils have members on that now as well. We are trying to use that as a mechanism for promulgating and learning about best practice that exists within the system more widely.

Q796 Mr Jones: We also heard from Sir Amyas Morse, "There are a lot of areas where Government does not have the capacity to do anything else but outsource". Again I quote, "The capability of even acting as a prime contractor is not necessarily there". Do you accept that picture? We have heard what is happening at the moment, but do you think that is a fair criticism?

John Manzoni: He has some areas and some examples of course in a big system where we are not doing it the way we should. I do not think we are where we want to be in terms of building not just the commercial capability, but the technical capability, the project management capability in particular, because those skills are different in terms of implementation and what it takes to drive that implementation. That is a particular area where we are not where we want to be. It is probably right that there are areas across our system where we do not have the right skills and the right people. I know it is right we do not have the skills.

Q797 Mr Jones: Over how long a period have these skills declined to the point of disappearing?

John Manzoni: Organisations move in cycles. Outsourcing started probably more than a decade ago. When we first outsourced we had plenty of those skills in the Government to manage those outsourcing over that decade. Over time they atrophied a bit and now we are building them back faster than they atrophied.

Q798 Chair: In terms of the data that you collect on public contracts, where



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are the weaknesses in terms of persistent lack of data? The Ministry of Justice was singled out by the Public Accounts Committee in 2018. The Government's national technological adviser, Liam Maxwell, made a speech in which he said, "We need to find out the ways of analysing Government procurement effectively. We have not done that systematically".

John Manzoni: I am going to turn on commercial to talk to Gareth about what he is collecting.

Gareth Rhys Williams: Any contracting entity has to publish on a thing called Contracts Finder the contracts they have let, so we can look at the data within that either by Department or by sector. That data is getting better and better. That is a limited level of data. It does not tell us about contract profitability. I touched on the open book data we have now, which is a big step forward, and the Contracts Finder data does not tell us anything about the KPI performance. That we need to rely on what we get out from each Department. We are thinking about how we go forward. Maybe this has led to a transparency initiative of how much of that should be published as well. There is more we can do there.

Q799 **Chair:** What more do you need to do? Be specific. What recommendations do you want us to make?

Gareth Rhys Williams: We have triaged our contracts into gold, silver and bronze, basically by size and by risk. The next step would be to look at KPIs for the gold contracts, then gold and silver, then gold, silver and bronze. That is linked to the training exercise that we have initiated for contract matches. There has to be a proportionality element here. If we said, "Gosh, wouldn't it be marvellous to have all the KPIs and all the contracts the Government lets," we would drown ourselves in useless data. The cost of collecting that would be disproportionate. Let's start with the gold contract—we have done that—then move on to the silver and so on.

Q800 **Kelvin Hopkins:** Back to transparency: what is your view of the suggestion made by the National Audit Office, and the Institute for Government, that there should be more transparency around Government contracting?

Mr Lidington: Can I just come in first on this? It is important to recognise the changes towards greater transparency that have been made. Central Government buyers have to publish 10 different contract documents for any contract over £10,000 on Contracts Finder—£10,000 is a low bar and that is a lot lower than the relevant European threshold, which at the moment is £118,000. Then there is the whole open book contract management that will apply to some of the more complex contracts that Government has. There is a set of transparency principles that were last laid out in February last year, which defines information to be released to the public covering contract prices, including any incentivisation mechanisms of the contract, performance metrics, plans



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for management of underperformance, governance arrangements, including subcontractors and supply chains, resource plans and service improvement plans.

To go further and apply, let us say, FoI to all public contractors, it does raise questions about the commercial confidentiality and the publication of information that might be useful to a particular company's competitors, whether domestic or international competitors. It also raises questions, if one were to look in that direction about how far down the tree you go. Even the Information Commissioner's report from 2015 said that it would not be proportionate for all contractors to be designated as public authorities, but you are talking in some cases about relatively small or medium-sized businesses.

Q801 Kelvin Hopkins: The CBI has told us that in many cases where requests for information were rejected it was the Government, not the contractor, who opposed releasing the data. Why was that?

Mr Lidington: Without knowing the exact detail of that I cannot give you an answer. I am happy to write to the Committee about that, but of course there is a consultation on the future code of practice for the application of the FOI Act that went live in November last year and closed a couple of months ago and we are looking at the responses to that at the moment.

Q802 Kelvin Hopkins: Serco have suggested the performance against contractual KPIs should be published. What is your view of that?

Gareth Rhys Williams: That is what I was talking about. I think in many cases that would be quite helpful. One criticism we could own up to is that we have too many KPIs. The K stands for key and it slightly loses its impact if there are 20, 30, 40 or 50. I think it would be quite healthy. This is a live topic and that is why the Minister is smiling. If we could move to publishing three, four, five—I do not know—I think that would focus the mind of the contracting authority on what is the outcome they are most desirous of in this contract. I think that would be healthy and it would allow us to hold those vendors to account more publicly.

Mr Lidington: This is another of those things that we are reviewing in the light of recent events, and on which I hope to be able to say something in public before too long.

Q803 Kelvin Hopkins: You mentioned the Freedom of Information Act a little while ago. Do you agree with the Information Commissioner that contractors should have to abide by the Act?

Mr Lidington: I have seen the memorandum from the current Information Commissioner to the Committee, but I think that does still raise some significant questions about both commercial confidentiality and about whether you apply that to every contractor, however big or small. Either the contract is or the company is who is responsible for that contract.



Q804 **Kelvin Hopkins:** Finally, Sir Amyas Morse has called for you to be more open about your logic when it came to decisions about whether or what to contract out. What do you think of this suggestion?

Mr Lidington: I see no objection to that in principle and I would expect contract holders, whether they are ultimately Ministers or local authorities or health trusts or school governing bodies, to make their reasoning clear. As I said right at the start of our session, when a contract is led or put out to tender, part of the exercise involves the contract holder testing and examining whether this service could be better provided in-house so it would be perfectly reasonable for an explanation to be given.

Q805 **Kelvin Hopkins:** I have to say we had evidence given to us yesterday suggesting that some of these decisions are driven by dogma rather than logic.

Mr Lidington: That sometimes leaves us that there is a disagreement about the decision and that is perfectly reasonable to say. One could with equal vigour argue that dogma might apply to a decision to act in-house rather than to outsource. I think what is important is that the body or the individual that takes a decision about choosing to outsource the provision of a public service should be prepared to give an explanation for the reasons for that decision.

Q806 **Chair:** We are not aware of any major service failures or gaps in public services arising from the collapse of Carillion, are we?

Mr Lidington: No. I will ask John or Gareth to chip in if they think I have this. Do not get me wrong, Chairman; the collapse of Carillion was awful, particularly for those workers who were directly affected or people who had made pension contributions to the Carillion pension funds. But the Government's prime responsibility in that week in January and the weeks following was to ensure that public services continued to be provided and, as far as I am aware, there has been no major interruption to any of the Government services.

Q807 **Chair:** We understand the Government is not concerned about any of the other major strategic suppliers to the Government. They are not going to collapse in the same way.

Mr Lidington: We keep them under constant review. We have a strategic relationship with the 30 or so key strategic Government suppliers. That includes, as we said earlier, the role of the Crown representatives. It includes a regular dialogue. As Gareth said earlier, we are not directors of those companies; we are important customers of those companies. So we will not have access to all the information that directors for their fiduciary duties must have access to.

But we look at market reports with even more attention after what happened to Carillion and part of our preparation is to ensure we do have contingency plans in place. One of the things that arose out of Carillion is that good contingency planning worked effectively in that case and I



think the lesson has borne in on all Departments that contingency planning needs to be an important part of their outsourcing work.

Q808 Chair: What are the lessons for the internal capability of Government in managing these companies?

John Manzoni: There are a number of lessons, but in particular, let us start where David finished, the need for contingency planning both internally, the need proportionately for us to require potentially some of our suppliers to not have some nightmare of structure inside where it is complicated if they were to fail—those things. That takes skills and capabilities on the inside to require that to happen and judgments and all those things. I think that is important.

This is just an opportunity to revisit some of the things we have talked about, but the insight with which we enquire about make or buy upfront has to be continuously revisited. Occasionally I think we do tend to say that the private sector can sort that out and we outsource a bit of a mess. That is a learning and we have to be better at sorting it out for ourselves.

Q809 Chair: And the Serco living wills proposal?

John Manzoni: For instance, that is a requirement. It goes with, “If you are a big supplier to Government, could you please make sure your structure inside is coherent and consistent? By the way, in the event that something terrible happens to you, could you please make sure that we have a plan and the taxpayer will not be disadvantaged?” I think that is a perfectly reasonable conversation we are having.

Gareth Rhys Williams: The living will idea is good as it has been applied to the financial sector. I think it might be onerous for most of our other vendors. For me, the big lesson of Carillion—a very large supplier to Government vanished and there have been no outages—is that a co-ordinated pan-Government approach works. It takes infrastructure to put that in place, but the lesson is compared to two or three years ago when we had a similar moment with a couple of other vendors, how much faster we were this time. I think that slightly proved the point that one Government supplier management works.

Chair: We recognise that a great deal of midnight oil has been burned in the Cabinet Office by you and your officials. If you would take the thanks of this Committee to your very hardworking officials, we would be grateful. I do not think we have any further questions. Thank you very much. We have run over, mainly due to the precociousness of our witnesses. Thank you very much for a very useful evidence session.