



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Northern Ireland Community Safety College:
Update

14 November 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Dr Bernie Stuart	Department of Health, Social Services and Public Safety
Ms Louise Warde-Hunter	Department of Justice
Deputy Chief Constable Judith Gillespie	Police Service of Northern Ireland

The Chairperson: We have with us officials from the Police Service and the Department of Health, Social Services and Public Safety (DHSSPS). I formally welcome the Deputy Chief Constable, Judith Gillespie, who is chair of the Desertcreat programme board; Dr Bernie Stuart, who is director of the investment directorate in DHSSPS; and Ms Louise Warde-Hunter, deputy director of the policing policy strategy division in the Department of Justice (DOJ). You have been very good in facilitating us when we have sought information, and we appreciate that. This session will be recorded by Hansard and published in due course. I invite the Deputy Chief Constable to update the Committee, and then members will have some questions.

Deputy Chief Constable Judith Gillespie (Police Service of Northern Ireland): Thank you, Chair. Good afternoon to you and to members of the Committee. My colleagues Dr Bernie Stuart and Louise Warde-Hunter have already been introduced. I am glad to have them here with me and assisting with the programme. We welcome the invitation and the opportunity to update the Committee on developments on the Northern Ireland Community Safety College since our last meeting with you on 20 June and prior to that on 7 March earlier this year.

I am pleased to say that, despite this having been a challenging period, the programme continues to make progress. Committee members will recall the delay caused by the failure of the design team to ensure that the approved design was within the pre-tender estimate budget. You will be aware that, following acknowledgement and acceptance of responsibility for the mistakes by a senior representative from the design team, new senior management was appointed to that team. The errors also necessitated a comprehensive bill of reductions. That has been thoroughly worked through with

the three services and signed off in principle at a senior level, with minor amendments to be finalised, again without compromising the ethos and functionality of the college.

The addendum to the outline business case was submitted to DOJ and DHSSPS in June 2013. Following internal departmental consideration and appraisal, Minister Ford took the matter to the Executive for discussion. On 8 October, Executive approval was given for the outline business case to proceed to the Department of Finance and Personnel (DFP) for consideration. That process is ongoing. DFP has asked a number of questions, with responses from the programme team almost complete. Following satisfactory replies to those questions, it is hoped that approval will be forthcoming from DFP within the next few weeks. That will allow the procurement process to proceed immediately to appointment of the preferred bidder, followed by approximately a four-month process to move to the position in which the contract can be signed.

Following successful completion of the full business case stage, the decision to proceed to programme sign-off and contract signature will be subject to final Executive approval. It is hoped that this will take place by April 2014. Furthermore, prior to contract signature, additional due diligence checks will be made on the preferred bidder's financial status. Although we are, as always, keen to provide the Committee with as much detail as possible, we are still in an ongoing procurement process in which there remain matters of commercial sensitivity. It remains our aim to be on site in May 2014 and to complete construction of the college by late autumn 2016. The overall cost of the programme has not changed since our last evidence to the Committee, remaining at £157 million.

The Committee will be aware that the programme has been the subject of a number of governance reviews, including gateway reviews, and will be the subject of a further gateway review before contract signature. We have reviewed the programme structure and the skill set of the programme team as we move into this new phase of delivery. We have introduced further peer review advice and support to provide additional assurance to the programme and to ensure that all opportunities for cost reductions have been identified and value for money can be demonstrated.

The Committee might recall that the bill of reductions was also subject to peer review by a world-renowned architect. The PSNI has also built in specific audit review time in its internal audit programme for 2014-15. We continue to brief key stakeholders, and we met the staff associations from the three services on 31 October and the boards of the three services yesterday, 13 November. There is a continuing programme of engagement with local stakeholders through a monthly surgery, and the programme team, including me as senior responsible officer (SRO), is happy to meet and brief other stakeholders as appropriate.

As a programme board, we are committed, across the three services and with partners, to delivering the programme. It is a huge opportunity for Northern Ireland to lead the way in world-class integrated training and facilities. We are satisfied that the integrated college programme continues to provide value for money and will realise considerable benefits for the three services, but, most importantly, it will help to improve service delivery and keep people safe throughout Northern Ireland. We now invite your questions.

The Chairperson: Thank you very much. I welcome the progress being made in taking the project further. You said that the Executive have allowed it to move forward subject to final sign-off, which you anticipate being in April next year. I note that DFP raised some issues on 20 October. Are you able to elaborate on some of those and the timescale in which you hope to be able to address them?

Deputy Chief Constable Gillespie: Perhaps Louise could elaborate on the high level of those issues. Of course, our responses have not yet been accepted by DFP, so we cannot go into any detail, but Louise will give you a summary.

Ms Louise Warde-Hunter (Department of Justice): I am happy to do so, Chair. There were eight core queries from DFP. We are in the process of refining our responses to those and anticipate that they will go back to DFP shortly.

The first query was on the utilisation rates of the college: the day rates of the three services using it. The second was on space utilisation, which means, effectively, how the accommodation will be used. The third query was a minor point on an adaptation to the schedule of accommodation. Specifically, it relates to the removal of a classroom. The fourth area queried was the optimism bias, which is part and parcel of the development of the business case. The final four queries were on the construction

cost inflation element; the facilities management and life cycle costs; the site disposal strategy; and, last but not least, the capital funding shortfall, which relates to affordability.

The Chairperson: Do you regard any of them as show-stoppers?

Ms Warde-Hunter: In working through all of them, the two Departments have been working closely with the programme team. Undoubtedly, the key issue in which DFP will now be interested is affordability. That is an ongoing issue for the Departments to liaise with DFP on.

The Chairperson: Were you surprised at the number of issues raised by DFP? The Department of Justice approved the business case and had clearly signed off on it. It then went to DFP, so for eight queries to come back —

Deputy Chief Constable Gillespie: The experience of the programme team is that it has been a robust process from the very start. When the business case was first submitted in 2011, and even when it passed through DOJ and DHSSPS, queries still came back from DFP. The short answer to your question is that I am not surprised that there were further queries from DFP. It is important that there is thorough governance and thorough explanation of all the issues raised.

The Chairperson: I will move on to a different point. Have you been able to confirm a preferred bidder yet?

Deputy Chief Constable Gillespie: The preferred bidder designate has been identified through the procurement process but not yet appointed. That cannot happen until the business case is approved by DFP.

The Chairperson: There has been some commentary on the preferred bidder designate. One concern is that, regardless of who it is, we do not have a repeat of Patton, with a big company going bust and the subcontractors being penalised. What steps are being taken to ensure that, regardless of who is appointed, the subcontractors will be paid should there be difficulties?

Deputy Chief Constable Gillespie: The financial viability of all bidders was checked through the construction line process, which is the normal procurement process. Bernie may want to comment further on the due diligence checks that will take place before it goes to contract signature.

Dr Bernie Stuart (Department of Health, Social Services and Public Safety): With any routine contract, there is a construction line check at various points in the process. Once we get through the business case process, there will be a further check on the preferred bidder before appointment and again before contract signing. There is no financial commitment until contract signing, so either the bidder or the contracting authority can pull out at any time.

In addition, because of the specific concerns raised in this project, a consultancy firm was asked to investigate further the potential of the joint venture's ability to undertake the project. That review was done in July 2013 and updated in August and September. There is nothing in that to indicate that the companies are not fit to be the preferred bidder.

There has also been some discussion with the companies about their willingness to use a project bank account. That was not one of the tender requirements, but, although not yet appointed, they have indicated their willingness to use a project bank account, which will be an additional protection for subcontractors. Both partners are jointly and severally liable for continuing the project should one of them go under during the process

So there are a number of constraints. You can never be 100% certain, but all those checks are in place. Some additional steps — more than usual — have been taken.

The Chairperson: I know from discussions with the Minister of Health that he was keen to pursue project bank accounts to facilitate his signing off on the whole project.

Dr Stuart: Yes, that is correct.

The Chairperson: Is the preferred bidder designate willing to accommodate that?

Dr Stuart: The preferred bidder designate has written to say that it would be willing to use a project bank account.

The Chairperson: Will you elaborate on what a project bank account would mean for subcontractors' confidence?

Dr Stuart: There are proposals from the Central Procurement Directorate, which is responsible for guidance on public sector procurement, to introduce project bank accounts more widely. They have not yet been introduced completely across Northern Ireland. The proposal is for a pilot in a number of cases. There are very specific constraints on project bank accounts, so it is possible that they will not use that model. A project bank account effectively means that there is control over the money so that the contractor cannot divert money from the subcontractors to other projects. So, although the preferred bidder designate has agreed to a project bank account in this case, the specifics of how it will work might not be in line with the emerging policy from CPD. It is an extra protection for the subcontractors so that the money is effectively ring-fenced for that project and for them to claim against.

Mr Wells: Mrs Gillespie, you will have very fond memories of your time in Enniskillen, as has my brother, who was there at the same time. One of the reasons why those colleges were well utilised was the constant throughput of young recruits. That has not been the case recently with the PSNI. Indeed, there was a freeze on recruitment for a considerable period. If we are to go down the route of spending this large amount of money on a state-of-the-art college, are we absolutely certain that its bread and butter, which is training new recruits, will continue at a level to justify its existence?

Deputy Chief Constable Gillespie: That is an entirely understandable question, given that we have not recruited for more than two years. However, it is really important to stress that the college is not just about foundation training, and it never was. Student officer, or foundation, training is only a part of the business of the college, which is about continuous professional development and lifelong learning for the three services. Our calculations are based on very sound projections of our officer numbers. After all, it is a 50-year programme, and numbers will fluctuate. As you know, we are running a recruitment process for at least 100 students and the projection is for more.

Mr Wells: Yes, and that is very welcome. There has been tremendous interest in those positions, but the core element of the college is a throughput of new recruits. The other aspects that you mention will be ancillary to that. What would happen if there was a further freeze on recruitment for a considerable period? At what capacity would the new facility be running at?

Deputy Chief Constable Gillespie: The core business of the college is not foundation training; it is the rest of the continuous professional development. Remember, the facility is for the three services, and it is not all about foundation training. Of course, that is an element, but it is not the main element. The main element is that we have 10,000 people in the PSNI, and the Fire and Rescue Service has a significant cadre of staff, as does the Prison Service, both uniform and civilian.

There is a continuous programme of training throughout an officer or a member of the police staff's career, and the college will provide that. Of course, from time to time, there will be fluctuations in recruitment numbers, but the projections have catered for that. In fact, the projection on which we based the business case was that of recruiting 200 police officers a year, but we are seeking to recruit more than that in the next couple of years. Of course, all of that is subject to funding and agreement by the Executive, which you have an influence on. It will not be subject to shocks if recruitment is geared up or geared down, because the business of the college will be the continuous professional development of the three services.

Mr Wells: Thank you for that answer.

Last night, I had a very interesting conversation with someone in the building trade. He surprised me by saying that the building trade was beginning to pick up. He said that so many workers had left skilled construction work that he was worried about a shortage when the upturn arrives. He also said that the price of materials — cement, wood et cetera — was rocketing. That will have an impact on the college. Who takes that hit? Is it the contractor who tendered, or could we be back in a situation in which we have to pay for overruns as the construction work starts?

Dr Stuart: The contract price, as set in the tender by the bidders, holds officially until December, which is the date we mentioned when we were last here. The bidders can pull out at any time after that and say that it is no longer viable for them to hold that price. They cannot, however, say that they will raise the price. So the contractor will bear any increased costs.

Once the contract is signed, there will be a guaranteed maximum price, which is the price to which the contractor will work. Inflation and so on are already taken account of in that, so there is no further potential there for increasing the cost. Their only method of dealing with an increase in costs would be to say during the preferred bidder stage that the contract was no longer viable contract for them. At that point, the bidder can pull out, but there is no opportunity to raise costs.

Mr Wells: So there will be no circumstances where you will come back to the Committee to ask for an extra £10 million because of an unforeseen situation?

Dr Stuart: No, not for price rises such as you have described.

Mr Wells: How much has the consultant/architect now been paid as part of this scheme?

Deputy Chief Constable Gillespie: To date, the design team, which is what you are asking about, has been paid £7.12 million.

Mr Wells: I definitely went into the wrong career.

Mr Elliott: Thank you very much for the update; it is always good to hear the information flowing. I want to ask about the preferred bidder-designate. Is the identity of that bidder public knowledge yet?

Deputy Chief Constable Gillespie: The five bidders know their order of merit. The preferred bidder-designate knows that they are number one in the order of merit, and the other bidders know their position. We will not make a public announcement about it until the preferred bidder is officially appointed through approval by DFP.

Mr Elliott: I am slightly reluctant to press further because I take the point, but I understand that the identity of the preferred bidder was publicly announced last week in Cookstown.

Dr Stuart: Yes, that is correct. Minister Poots named the company, but what Judith said is correct: it has not been publicly announced through the process, although there is widespread knowledge of who it is.

Mr Elliott: So it is public?

Dr Stuart: It depends what you mean by public. It has not been publicly announced through the formal process.

Mr Elliott: However, it is public.

Dr Stuart: People know, yes.

Mr Elliott: In light of any recent allegations or suggestions from an Assembly Committee, have you any concerns about the preferred bidder-designate?

Deputy Chief Constable Gillespie: The procurement process in the programme has followed due process absolutely; it has been properly supervised, the individuals involved were trained and the process is sound. As the senior responsible officer (SRO), I have no concerns that due process has not been followed in this case.

Mr Elliott: You have no concerns at all?

Deputy Chief Constable Gillespie: There are no concerns that I am aware of, and none has been brought to my attention.

Mr Elliott: You said that £7.12 million has been spent on consultants so far.

Deputy Chief Constable Gillespie: That was on the design team. That is not a total.

Mr Elliott: What is the overall spend so far?

Deputy Chief Constable Gillespie: The overall spend on the programme so far?

Mr Elliott: Yes.

Deputy Chief Constable Gillespie: We have spent about £8.2 million on consultants' fees

Dr Stuart: The land cost £200,000.

Deputy Chief Constable Gillespie: The total spend to date is £8.4 million, of which £7.12 million went to the design team.

Mr Elliott: OK. So, there is an overall spend of just over £8 million so far.

Deputy Chief Constable Gillespie: That is right.

Mr Elliott: That is fine, thank you.

Ms McCorley: Go raibh maith agaibh. Thank you for the presentation. Further to a previous question, I presume that when the college is built and functioning it will be used for CPD. Do you envisage circumstances where it may be underused? In those circumstances, would you have a plan B to make it worthwhile?

Deputy Chief Constable Gillespie: The college has been designed with very high occupancy rates for all the facilities, including classrooms, practical facilities and accommodation. We are confident that there will not be, as you describe it, underutilisation. Should that happen, however, I assure the Committee that we have had huge interest in the college from other agencies, from the local community and from international agencies. There is an opportunity to run further training to use any underutilised capacity to generate income. However, that was never part of the business case. The business case was always based on a very high utilisation rate of the facilities. There is a plan B. We may not have to use it, but it is there.

Mr Anderson: Judith, I thank you and your team for the presentation. Quickly, on the time frame, you talked about signing the contract by April 2014, being on site by May 2014, the project being completed and the premises occupied by autumn 2016 —

Deputy Chief Constable Gillespie: All being well.

Mr Anderson: Is there a guarantee that those timescales will be met? Are penalty clauses built into the contract the whole way through if it is not delivered by that time?

Deputy Chief Constable Gillespie: We are in the hands of DFP. We hope that the process will move forward without further delay as soon as we can respond to its queries. There will then be a four-month preferred bidder period when we will work in detail through the bill of reductions with the preferred bidder, with a view, all being well, of signing the contract. Of course, moving to contract signature is subject to Executive approval. There are imponderables outwith the control of the programme. However, we will work as swiftly as we can to fulfil our part of the bargain, and we hope that Departments will do the same.

Mr Anderson: When you get to the build stage, will there be any penalty clauses concerning the completion date?

Dr Stuart: I do not know; we can check that out for you. Normally, the process would be the timeline that is given, but exceptional circumstances may arise. As Judith said, the main delays and uncertainties are before contract stage. Once you are on site, the time frame is, we think, pretty tight.

Mr Anderson: I am trying to find out whether there is a possibility that the autumn 2016 date could go on and on —

Deputy Chief Constable Gillespie: There is always the possibility that you will come across an unforeseen difficulty. Hence, you build in optimism bias.

Mr Anderson: How would that affect the project end costing?

Deputy Chief Constable Gillespie: I guess that it depends on the difficulty, although without a crystal ball it is hard to know. We have, however, projected what we think are realistic and achievable timescales, but, apart doing that, there is only so much within our control.

Dr Stuart: It is also the cost; the optimism bias includes a contingency figure. So a figure for unforeseen circumstances, based on the experience of those pricing it, is already allowed for. We would not expect that to —

Mr Anderson: Is that included in the overall costing of —

Deputy Chief Constable Gillespie: Yes.

Mr Anderson: — about £57 million?

Deputy Chief Constable Gillespie: Yes. Quite a significant optimism bias is built in.

The Chairperson: I wish to cover a last point. I will not repeat all that we did in a previous meeting, but one of the matters discussed then was the liability for failure of the design team, which resulted in so many of these problems. Have you been able to examine what recourse is available over the failure of the design team and will you update us on that?

Deputy Chief Constable Gillespie: Yes, and I know that this was, understandably, of some interest to the Committee. We have very carefully collated all the additional costs caused by the design team's failures; that is a matter of litigation. I am clearly instructed that I cannot discuss the actual quantum of those costs, because it is subject to litigation. However, I assure the Committee that we will seek to recoup every additional penny that has been spent because of the design team's failures once we move to contract signature, when we will know exactly what those costs tot up to. However, at this stage, disclosing a figure could possibly prejudice litigation as we move through the programme.

The Chairperson: I certainly do not want to jeopardise the prospect of getting money back, but I welcome the development that that is being pursued. We wait with interest to see how much is successfully recouped.

OK. Thank you very much for coming to the Committee.

Mr Elliott: Chair, may I ask when we can expect the contractor to be on site?

Deputy Chief Constable Gillespie: In May 2014, assuming that the process through DFP and Executive approval continue as we anticipate.

The Chairperson: OK. Thank you. That is much appreciated.