



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

Translink Service Agreement: DRD Briefing

26 June 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
Mr Seán Lynch (Deputy Chairperson)
Mr John Dallat
Mr Stewart Dickson
Mr Alex Easton
Mr Cathal Ó hOisín

Witnesses:

Ms Anne Breen	Department for Regional Development
Mr Sean Johnston	Department for Regional Development
Mr David Strain	Department for Regional Development

The Chairperson: I welcome Sean Johnston, programme manager in the Department for Regional Development's transport projects division; Anne Breen, of the public transport services division; and David Strain, of the transport projects division. You are all very welcome and are no strangers to the Committee. We will start where you left off the last day, so we do not have to go through the presentation again.

Your answers are being recorded by Hansard, so we will hold your feet to the fire on them in due course. Members have the information on your previous presentation, so if you want to make your opening comments, we have quite a number of questions that we want to put on the record and hear your answers to.

Mr Sean Johnston (Department for Regional Development): All we were going to do was to thank you for the opportunity to come to clarify any issues that you want to clarify with us, following the presentation on 5 June and the letter with your queries that we responded to after that presentation. So, really, we are here to respond to your queries.

The Chairperson: There are quite a lot. I ask members to bear with me and the Deputy Chair in relation to a number of issues and then pick up on the points. The questions that we will ask are those that we want on the record.

During the debate on the Main estimates before the First Stage of the Budget (No.2) Bill on 10 June, in response to Mr McNarry, who, unfortunately, is ill and not with us today, the Finance Minister stated:

"we should not enter into a 10-year contract — "

— or agreement, if you want to call it that —

" — with what is, in effect, a monopoly, without proper assurances. Before the 10-year contract is signed, comfort has to be given to PEDU that there are proper procedures in place so that there is validation of the financial practices and control within the organisation". — [Official Report, Vol 86, No 1, page 55, col 1]

Is that built in to your calculations for progressing the matter? What views do you have on the comments made by the Minister of Finance on that just a few days ago?

Mr Johnston: The work on the performance and efficiency delivery unit (PEDU) is ongoing, so we will see where that takes us in due course when that is completed, which will be well before the service agreement is agreed. Any issues about the finance or governance of Translink have been well catalogued over the years and, no doubt, will be further catalogued.

The Chairperson: You might say so, but the Committee certainly does not hold that view, Mr Johnston. If you want to answer questions on the financial status of Translink, and can expertly answer such questions, I am quite happy to go into that area.

Mr Johnston: No; but I do not think there is anything in any of the issues that we are aware of that would prevent us from entering into an agreement for 10 years, as we propose. The arrangements for governance of them have been long-standing. The contracts will introduce further controls in the service delivery, including efficiency targets and the arrangements that are already fairly well documented, so I do not see that —

The Chairperson: Some of their key performance indicators (KPIs) are about footfall and stuff like that, not the financial aspects of the contract or anything else, are they?

Mr Johnston: They are not about the financial aspects, but there are other arrangements for the financial controls. The governance arrangements are controlled through the management statement and financial memorandum, which adheres to Department of Finance and Personnel guidelines.

The Chairperson: The Committee has not seen the financial annex because your Department has refused to let us see it at this time.

Mr Johnston: The financial annex for the agreement is not developed yet, so you cannot see that.

The Chairperson: All right.

Mr Johnston: It is not there yet.

The Chairperson: So, you are not sure about it? You have not examined it, so you are not really sure about the financial aspects, is that what you are telling me?

Mr Johnston: You seem to be querying the financial governance of Translink, and that is an issue for the 10-year agreement. The controls of that are through the financial arrangements that are in place, which is the governance plan and financial memorandum, which are ongoing and have been reviewed.

The Chairperson: With all due respect, Mr Johnston, surely the annex goes into areas of the financial governance of Translink as well. Yes or no?

Mr Johnston: The annex looks at the income and outgoings of Translink. The reason for the annex is to prove that we are not overcompensating them. On one side of the equation, it will show Translink's income, and, on the other, its outgoings and some level of profit, assuming that it makes a profit. The point is to make sure that it is not being overcompensated. That is the purpose of the annex that we are talking about in terms of the contract. However, the overall financial governance of Translink is covered through the management statement and financial memorandum.

Ms Anne Breen (Department for Regional Development): The overall governance is in the management statement and financial memorandum. In addition, the corporate planning process looks each year at the overall financial package, the balance within that and how that is managed. Added to

that, we have the monthly monitoring cycle, when we get resource reports from them as well as KPIs. We can monitor that throughout the year to see what progress is being made and look for any changes in trends or differences and question them on the reasons for that.

Those three aspects will continue when a contract is in place. We will need all that more-detailed monitoring to support the overall monitoring of the agreement that is in place.

The Chairperson: Let us go back to PEDU. You say that you do not know what is in the PEDU report yet and it is not being considered, but you are still doing the work. What if the PEDU report says that the proposed agreement does not provide the appropriate assurances?

Mr Johnston: The purpose of the PEDU report is to assess Translink against other operators and provide some sort of benchmarking information. Financial governance of Translink is not the purpose of the PEDU report. The PEDU report is about the efficiency of Translink. The reason that is an issue is that we need to be able to confirm, in the financial annex to the agreement, that it is not being overcompensated. It is not about the overall financial governance. I think the Audit Office, relatively recently, looked at the Department's relationship with Translink and that governance.

The Chairperson: Of course, the Audit Office is doing another examination of Translink, is that not right?

Mr Johnston: I am not aware of that.

Mr Dallat: I hope not.

The Chairperson: It has asked for papers from the Committee. It is doing it. Would you not need to know the outcome of that audit report as well before you enter into a 10-year agreement?

Mr Johnston: I do not know that there is an audit report. The Audit Office looks for all the information it can glean from anything that is produced, so it is not abnormal for it to come looking for information. It does not mean that it is going to launch another review.

The Chairperson: Our understanding is that it is launching an investigation.

Mr Johnston: It may be looking at the overall public transport strategies and all of that. I think there might be some work planned on that, but there is nothing further specifically on Translink that I am aware of. That is not to say that it could not be planning something in the background that we are not yet aware of, but we have not been told yet — certainly not in the context of the agreement with Translink.

The Chairperson: You stated that the key requirement is that there is no overcompensation. Could it be argued that £29 million for buses last September and a bid of £12 million is overcompensation, particularly as that means that Translink does not have to eat into its profits or capital fund?

Mr Johnston: To prove the overcompensation, you would need to look at the overall package of funding. Capital funding is a bit of an odd thing, because it is depreciated over the life of the asset, as I understand it. You do not say that in the year it got the £29 million, it was overcompensated. I think that that is depreciated over the life of the asset, so that is the way it would be represented in the accounts. I am with you on the complication of accounts, but it is not just because it gets a bulk of money. Capital money tends to spike up and down. Some years it gets very little, and other years, it gets a lot, but it is usually smoothed out and depreciated over the life of the asset. Is that fair to say?

Ms Breen: In the overall calculation, we have to take account of all funding that it gets in order to determine whether it is overcompensated. That will include capital funding and revenue funding. Anything that it gets will have to be taken into account. Against that, you offset anything that it is getting as well. We have to balance that equation and see whether, if it is making a profit, it is a reasonable one, and to make sure that we are not overcompensating it. We will take full account of any capital that it gets in determining the balance of that equation.

The Chairperson: Does that include the other contracts that it has with government — the very lucrative and substantial contracts with the Departments of Education, Health, and so on?

Ms Breen: Yes. That is the process that we have to go through. We have to make sure that we have all the information that we need in relation to all its funding and how that is accounted for. Then we have to balance that with the costs of—

The Chairperson: Can you give us figures in relation to the budget that it gets from the Department of Education for school transport, etc?

Mr Johnston: I have seen the figures relatively recently. The overall amount that the Department of Education spends is something like £70 million, and I think Translink gets about half of that, or maybe slightly less than half of it. Do not hold me to the figures, because I am trying to recall what they were, but that is the sort of magnitude.

The Chairperson: So it is £35 million?

Mr Johnston: More like 40 —

The Chairperson: Maybe you can give us a proper figure for that, and there is a bit of Health spend as well.

Mr Johnston: There might be, but not that much, I think. It is more the Department of Education, and that is what we are looking at in the Dungannon pilot.

One of the other things that we need to take into account is other commercial activities. If they do Ulsterbus Tours, private hire, and so on, what we want to show is that that contributes to the public service obligation (PSO) and that the profits from that are counted in. The money that they are bringing in on that is also counted into the equation.

The Chairperson: That is what we are not sure about and what we are trying to find out, Mr Johnston.

Mr Johnston: It has to be. We have to make sure that that is the case.

The Chairperson: Maybe you could let us have the figures for Ulsterbus Tours and all the rest of it as well?

Mr Johnston: We will come to you with the annex when we have it compiled.

The Chairperson: You are already examining those figures. They are a matter of transparency for the general public, with regard to Education transport and Translink's commercial activities.

Mr Johnston: I do not know whether that is clear in the accounts. I am not so familiar with them that I would know how to differentiate that.

The Chairperson: You obviously have those figures. You are only after telling us, on the record, that you have them and that you have seen them. Is that right or wrong?

Mr Johnston: I have the figures for Education transport, but they may not be quite up to date. I have not seen the recent accounts.

The Chairperson: I am surprised that you are doing an agreement or contract or whatever you want to call it, and you have not got the up-to-date figures. Is that would you are now telling me?

Mr Johnston: No. What I am saying is that we have not got to that piece of work yet. We are flagging up to the Committee the fact that we are going to be doing that work over the coming months and that we will share it with you when it is ready.

The Chairperson: When is it likely to be ready?

Mr Johnston: Probably in the autumn.

The Chairperson: Probably the autumn. OK.

Can I move to the contract? You do not like calling a contract, but I will call at the contract because —

Mr Johnston: We do not mind.

The Chairperson: — it appears that the Department of Finance and Personnel calls it a contract. A contract must contain five key elements, one of which is that it should be legally binding. Is this agreement, which you are putting together in relation to a 10-year contract, legally binding?

Mr Johnston: No. We have already explained that in the response.

The Chairperson: Explain it to me again for the record.

Mr Johnston: Generally speaking, contracts between public bodies are not recommended to be legally binding. That is not a sensible way to proceed because they would be involved in litigation against one another. So they are not generally seen as legally binding. It does not need to be legally binding for the purposes of EU regulation either.

The Chairperson: So, EU regulations talk about a legally binding contract, and you are operating under the EU —

Mr Johnston: I am not sure that they talk about a legally binding contract.

The Chairperson: I think you want to go and check that. You should be able to —

Mr Johnston: I am fairly sure that we have checked that and that it is not the case.

The Chairperson: It is a public service contract. It says that it needs to be legally binding and that it has five key elements.

Mr Johnston: The guidance that we have seen suggests that it could take the form simply of a legal act, so it is not, as far as we are concerned, legally binding. It could be that legislation says that this is the way that the arrangements work and, in that sense, it is legally binding. However, in the traditional sense of a contract and taking each other to court, it is not legally binding.

The Chairperson: Let me ask you another question. You have just told us that £35 million — give or take a few million here and there; it is probably not a big issue in the context of what we are talking about — comes from the Education budget. Is that legally binding?

Mr Johnston: Education is exempt from the terms of the EU regulation. It is not encapsulated within it, but it will have to be encapsulated within the annex for the costing purposes because it is another part of income. However, Education transport for pupils is exempt from the terms of EU regulation 1370.

The Chairperson: Well, it is a contract —

Mr Johnston: It is effectively a contract.

The Chairperson: — between two public bodies. You are telling me that it does not have to be legally binding?

Mr Johnston: No. It does not.

The Chairperson: Do we just make up our own rules as we go along but throw in the EU regulations when it suits us? Is that what you are telling me?

Mr Johnston: No. What I am telling you is that, with respect to finance for the annex of the agreement that we will enter into with the Northern Ireland Transport Holding Company, we will take account of the funding that comes from the Department of Education as income to Translink.

However, if you are asking me whether it is a legal requirement that Education transport is part of the agreement, the answer to that is no.

The Chairperson: All right. Let me go to another area. You have told us that the Department opted for a 10-year contract and that — these are your words, not mine — the format of the contract is not expected to change significantly over the period. Right or wrong?

Mr Johnston: Yes, I will explain what I mean by that in a moment.

The Chairperson: Surely the introduction of a major infrastructure investment such as Belfast rapid transit would be seen as a significant change during the period, would it not?

Mr Johnston: The format will not change. The core agreement and the schedules to that agreement — that basic format of services — will not change. The body of the contract, the services and the KPIs will probably change.

The Chairperson: So, we bring rapid transit along, and, hopefully, new drivers and other staff will have to be employed, possibly on new contracts, and you are telling me that the millions of pounds that the Executive are going to put into the all-singing, all-dancing rapid transit system does not amount to a significant change? What is a significant change then? Maybe you could explain that to me.

Mr Johnston: The basic format of the contract will probably remain static, or, if it needs to change, we will change it.

The Chairperson: So you make new rules up as you go along?

Mr Johnston: That is what I said to you. There will be a change-control procedure in the 10-year agreement to allow us to change that. If we need to change the contract for the rapid transit or for any other reason, we will do that; for example, if we have to change the service. There will be a schedule of services from April 2014 that will probably be broadly similar to what is provided now, but as we intercept things like the Dungannon pilot, rapid transit and whatever else comes along, the schedules will have to change, probably quite dramatically in some cases, because it will be a different service. The design of those services might be quite different, so those will all change, but the basic format of contract and schedules, with service levels and KPIs, will not change. The detail of what is in them will change.

Given the law that is in place at the moment, we did not see the point in having to constantly go back every few years and go through the bureaucracy of renewing the contract, because the expectation is that Translink will be the lead supplier for the foreseeable future.

The Chairperson: Because you say so and because you have only soft-tested it in the market.

Mr Johnston: Let us think about that. We did soft-test in the market, and there was not much appetite —

The Chairperson: No, because you do not put it out, giving all the facts and details of all the grants, the Education part of it or the elderly pass for senior citizens, which is some £39 million or £40 million.

Mr Johnston: Let us be clear; even if we were dealing with Transport for London, if we were going to enter into a commercial contract, the type of contract that we would have to go for is the net cost contract. In other words, the operator would have to take the risks of the operational costs and the fare box. That model is similar to what they have in London, except in London, it is a gross cost contract. We would be asking operators to take on the risk of funding here. Some of them are even reluctant to take on the risks in London. A lot of the GB operators are moving out of London because it is too difficult.

The Chairperson: We do not know that, because it has only been soft-tested.

Mr Johnston: We do know that. That is what happening right now. FirstGroup is moving out of London and National Express has already moved out. Other operators from elsewhere on the

continent and from Singapore and places like that are moving in, but they just do not like taking the risk on the fare box or the passenger risks that we have. We would want them to take those risks. Do not forget that our system —

The Chairperson: You are talking about London, but what risk does Translink have? It gets all its buses bought for it. It has reserves that no one knows anything about really. I do not think even the Department knows anything about them. It gets lucrative money from the Department of Education and the senior citizens' passes, as well as the rest of the money that it gets from the public purse. Then your Department trots four times a year to the trough to look for more money for new buses and all the rest of it.

Mr Johnston: That is absolutely right, but it still bears the operational risk —

The Chairperson: I know that it is absolutely right. That is why I stated it.

Mr Johnston: It bears the operational risk of all the things that go into making up the comprehensive service that has developed right across Northern Ireland at various times of the day and in various areas that are not very profitable. It is bearing all that risk, and it is very difficult to change it, because the Department does not let it change that too readily as it means taking services —

The Chairperson: The last time that you were here, you told us that Translink cherry-picks the routes.

Mr Johnston: It cherry-picks the routes, but —

The Chairperson: It cherry-picks the routes.

Mr Johnston: The cherry-picking of routes supplements the vast number of routes where there is no money to be made, and which we insist that it provides in rural areas and areas where no commercial operator would operate. It bears all that risk. It bears the risk of the fare box. We keep encouraging it to grow the fare box, and that helps to make the thing more viable. There is a whole balance between income and services that have to be provided. In summary, it bears the operational risks of running all those services, and it bears the fare box risk. In commercial terms, that is what it bears. However, you are right: the fact that it gets the buses bought is a big de-risk. It does not eliminate the risk completely, but it de-risks it considerably. That offer was made to the private sector. Even with that, if it did not have control of the fares and the level of fares and the ticketing arrangements, it saw that as a risk.

The Chairperson: You have just told us that that offer was made to the private sector. Can we have a copy of the letters in relation to that and to whom it was offered?

Mr Johnston: Those discussions took place as part of the soft market-testing.

The Chairperson: It was only discussions. I am asking you now for —

Mr Johnston: There was no offer, because that would imply a tender.

The Chairperson: I am asking you now. Is there any issue with letting us have that?

Mr Johnston: Sorry; that was part of the soft market-testing offer that was discussed with the operators during that exercise, and I think that you have got a copy of that.

The Chairperson: You just told me that it was offered to the private sector.

Mr Johnston: Sorry; what I am saying is that, as part of that discussion on the soft market-testing, all of that would have been discussed with the operators, including all the ins and outs of what was available with concessionary fares. I think that the capital option of it providing the capital or the Department providing the capital was all explored as part of those discussions. The work was done by outside consultants, and I think that you have a copy of that.

The Chairperson: I do not think that we have. Maybe you could let us have a copy.

Mr Johnston: Did Ciaran De Burca not send you that?

The Chairperson: No.

Mr Johnston: I thought that he had.

The Chairperson: We will need to check, but, normally, any papers that come into the Committee office are in front of us. Certainly, we have not seen that yet.

Mr Johnston: I think that it was sent a few weeks ago. You should have it. If you have not got it, we can send it to you.

The Chairperson: You are happy enough to let us have that anyway.

I have one final question to put on the record, and then we will move on to the Deputy Chair. Your letter of 19 June states:

"In order to take account of the different legal regimes ... the Regulation is very broad and includes various types of legally binding acts."

Those are your words: "legally binding acts". Can you tell us what those are and how the proposed service level agreement is legally binding?

Mr David Strain (Department for Regional Development): Chairman, Sean has tried to cover the fact that it is very difficult for the Department to enter into a legally binding agreement with the holding company, because both are public bodies. The contract itself, or the service agreement, is about developing a relationship between those two bodies and trying to find the best way to deliver services within that arrangement that suits the particular member state in which it is being operated. That is why the EU regulation allows different types of agreements to be put in place to suit the different internal markets. That is what we are doing at the moment. We are trying to find an agreement that can be set out in conjunction with the Departmental Solicitor's Office (DSO) in its analysis of the regulation and also a set of regulations that we will bring to the Committee in the autumn, which will set out what may or must be contained in that service agreement.

There are a couple of ways in which we intend to try to make sure that we find an agreement that best fits the circumstances in Northern Ireland and can then be dealt with through formal regulations, which the Committee will see when they are developed over the summer.

Mr Johnston: The EU regulation allows for wide variety to cope with the different member states, their various machinations, and how they are organised. It allows for a wide range, from a fully formal contract through to a legal Act, in other words an Act of the Parliament in the member state. That could be the basis of an agreement.

Ms Breen: We have to take legal advice as we develop the agreement. We will be taking legal advice the whole way through to make sure that whatever agreement we end up with complies with the EU regulation.

Mr Lynch: You are having discussions in Brussels. Did the European Commission clearly state in writing that your proposed approach met their requirements and that we will not be facing potential infractions down the line?

Mr Johnston: We met them, set out what we were proposing, and then David and I had a meeting with them, which we minuted and sent back to them. That was the form of the discussion that we had with them.

Nothing that we were proposing seemed to breach any of their arrangements. They are mandated to issue further guidance on that, but that has not arrived in its final form yet. Hopefully, it will arrive before we finalise the agreement. If it does not, we will just have to run with what —

The Chairperson: We will just go ahead anyway?

Mr Johnston: We are working to a date. We do not think that we are that far off the track that we need to be concerned, so I would not be unduly concerned. The only issue, legally speaking, is overcompensation, which is the income from Translink and the amount it gets. We need to be able to show, on an ongoing basis, that the Translink companies are as efficient as they can be and are moving towards improving efficiency, which will always be on our radar in trying to get them to be as efficient as possible. The big issue, as regards the risk of the EU disagreeing with what we are doing, is overcompensation and in us showing that we are not overcompensating.

Mr Strain: At the meeting in Brussels, we had both sets of people who were responsible. As you are aware in some of our previous discussions, DLA Piper, the consultants, did a report for the Commission on the EU regulation and how it was applied across member states. As a result, the Commission said that it would provide us with further guidelines, which we will take into account over the summer.

We ensured that not only were the people responsible for providing those guidelines at the meeting but the Commission staff who are responsible for dealing with infraction proceedings. On the basis of the explanation that we provided on how the market was regulated in Northern Ireland and how we intended to put the service agreement together, they did not express any concerns about issues around infraction.

Mr Lynch: Are you confident that the agreement will be compliant with the EU regulation?

Mr Johnston: I do not think there is any doubt that it will be compliant, but that is not an issue that concerns the Department. The issue is that we are on track to getting a contract, but how do we make it work to best effect for everybody? The first iteration will be in March or April 2014. That will be first stab at it, if you like. However, we will be constantly refining the schedules to the contract when intercepting it with the results of Dungannon, rapid transit and whatever else comes along; for example, getting real-time passenger information on the buses.

The issue will be how we make it work for us. We introduced a system whereby instead of Translink having responsibility for acting as authority and operator, we are moving to a situation in which the Department, or Transport NI, is the authority, and Translink and its subsidiaries are the operator. So, we need to make that work for us to the benefit of the service. We need to focus on making sure that that is to the benefit of the users. We are not overly concerned about the EU. We are more concerned about getting a system that works to the benefit of Northern Ireland.

Mr Lynch: Do you agree that all your incentives are process-focused and that they ignore the outcomes? That is what communities — [*Inaudible due to mobile phone interference.*]— outcomes rather than processes.

Mr Johnston: We agree. When we come to you in the autumn with the KPIs, you will see that there is some focus on process, but there is also focus on outcomes. To some degree, there is a focus on outputs in the existing KPIs, but there needs to be a greater focus.

Historically, the Department has not had an authority role; it has had more of a governance role, but we are moving to a situation in which it has an authority role. In that role, it needs to have more focus on the services. That is what we started in Dungannon. The Department needs to know and understand the services and have a say in their design. That is where we need to move to.

We do not want this to be process-focused, and I will be disappointed if you get the KPIs and come back to us and say that they are all process-focused. If they are, they should not be. There is a bit of process, such as your query about Translink delivering projects on time. That is a bit of process, but it also has an impact on users. Some things will be important to us as a Department, but a lot of other things should be important to users. If it is not like that, we have not got it right.

Mr Lynch: Finally, you will have seen that we had a presentation from Guide Dogs NI, and one issue was audiovisual information. Will your proposed agreement touch on that, because it is a very important subject?

Mr Johnston: Yes, I cannot agree more. In a sense, the ball is in the Department's court rather than Translink's court. It falls within our remit; so, when I am here, I might as well explain it to you.

The position is that the contract for the existing bus track system that operates in Metro is over. We are finished on that, and there is a short-term arrangement in place. We do not have the money to replace it wholesale, so we are out for contract to see whether we can get an operator or supplier to maintain the existing system that is on the buses.

Subject to some upgrades, the existing system on the buses is fine. It does all the things, and it is an earlier version of what is in operation in other parts of the UK, such as Cambridge. Subject to us getting a supplier to maintain the system, it is perfectly adequate. We need to find the money to put it on the buses in the Metro area and to get mobile phones geared up and upgrade the bus stops as we can afford it. We still have to secure the money for that, but some of it would not take a lot of money, and we are bound to be able to get it from somewhere.

Translink has installed a GPS on the buses anyway, and we are in discussions with it as to how we could utilise that or make use of it to provide real-time passenger information on Ulsterbus. It is a bigger ask for Ulsterbus because there are a lot more buses, so I am not sure how we could do it. Mobile phones might be part of the answer, but, as the lady here explained, you cannot get mobile reception everywhere. It is a lot more money for Ulsterbus, but we would like to do some improvements on Ulsterbus as well, subject to us getting the money. However, the Metro one is doable and should be doable. When we will get the money to do it, I do not know, but the short answer is that it is not insurmountable.

Mr Lynch: What about the idea that it should be pre-planned and built into buses as they are being designed?

Mr Johnston: That is absolutely right, and it will be for rapid transit. The problem that we have had is that we are not sure what the solution will be at this point. We could have put something into the latest buses that were bought, but it would have been obsolete by the time that they were six months old. So, we are in limbo, and we are not sure what the solution is. We expect that it will be the existing bus track system, but it might not be. If somebody comes in with a cheaper, better solution, it might get thrown out.

The Chairperson: Are you telling us that we will wait until we get something cheaper?

Mr Johnston: We are out to competition, so we might get something cheaper; it might be cheaper. It is a competitive market. The system was installed a long time ago. It is still in operation. It is still being upgraded, and we expect that the software will continue in operation. That is our assumption, but who knows? When you are doing a procurement exercise, you cannot pre-judge its outcome. That is why we have not put it on the most recent buses.

When this year is over, and we know what the solution will be for five or six years, there is no reason why it could not be on, subject to us having the money.

Mr Lynch: One of the best ways of knowing the solution is through dialogue with the stakeholders and people who were here this morning. They are the people who sometimes know what is needed and what would best facilitate their needs.

Mr Johnston: I agree.

The Chairperson: I suppose the other thing is the costs. I do not see any issue with the cost, because if you are ordering 89 new Goldliners, you could order 86 instead and put the technology on board. You were able to do Wi-Fi. You were in the room when the folk were at the table. It appears that Translink treats people who are visually impaired and people with a disability as second-class citizens, basically.

Mr Johnston: There is that business of driving off. One of the things that we would like to do on the contract is some sort of mystery shop, where those sorts of things are happening on the ground. Customer service must be part of the contract; the standard of service must be part of that.

The Chairperson: The KPIs are sorted out by Translink by asking the questions, knowing that they will get the right answers. Would you guys get the right answers? Is that not the way it is done?

Mr Strain: Another thing that we can do in the regulations that are being prepared, and I mentioned this before, is to have an annex to the regulations. We will have that, and it will indicate what may or must be contained in the service agreement. One thing we can look at in association with DSO is building in some of the things that we would expect to see as basic requirements in that service agreement. They could include compliance with best practice or standards being set in the EU, as mentioned by Andrew and his colleagues this morning. We can look at that.

Mr Ó hOisín: I do not know whether there is a wild lot of meat left on this bone. I want to ask about the financial annex. Can I recap? This will not be developed until mid —

Mr Johnston: Mid-autumn; about October time.

Mr Ó hOisín: Yes, but in your presentation, you put a lot of store on the Dungannon pilot — I think you mentioned it five times — which will not be ready until mid-autumn, or thereabouts.

Mr Johnston: All I am saying in relation to this is that we will want the contract to be flexible enough to intercept the outcomes of the Dungannon pilot, whenever those happen. It will take a fair bit of time after we get whatever we get up and running in the autumn to make all the changes, because the law will have to be changed. It will not be a simple matter of having it in Dungannon this autumn and then rolling it out immediately; it will not be as simple as that. There will be a period of planning involved.

Mr Ó hOisín: Are you confident that the Dungannon pilot is still on schedule? I remember a presentation last autumn, when we were looking at the Dungannon pilot starting around April. Then we talked about September. Is that still the case?

Mr Johnston: No, we always talked about the autumn. We only got started in December. It was always planned that the first iteration would be in the autumn and that, as we resolved problems, we would augment it thereafter and, at the same time, start doing the business case for how it could be configured and rolled out.

We need the contract to be flexible enough to intercept that, as needed. This is where the work with the Department of Education and the interface comes in. Even though it is not part of the EU regulation, it will have to be part of the overall agreement about the money that is coming in. It needs to be counted into the overall pot of money that is available.

Mr Ó hOisín: OK. Are you happy with the buy-in from all the stakeholders?

Mr Johnston: We have been pleasantly surprised. It took us a long time to get all of them mobilised, but we have been pleasantly surprised so far. Maybe, when hardy comes to hardy and we see how it starts to shape up and what it is going to look like, there will be less support, but, at the moment, we have support from everybody.

Mr Ó hOisín: I want to ask about the financial annex. Given that the Department is the main funder, will the levers that can be used be reflected accurately in the annex?

Mr Johnston: What do you mean?

Mr Ó hOisín: Will the funding to maintain and improve the holding company's service and the Translink service and standards be reflected?

Mr Johnston: The annex will be an annex of all the income and outgoings and any profit that it makes.

Mr Ó hOisín: The Chair touched on the Goldliner purchase. It makes eminent sense to address some of the issues rather than look at the overall estate, per se.

Mr Johnston: Yes.

Mr Dallat: Given that so many imponderables are yet to be decided, is there not a real danger, Sean, that you will spend most of your time down at Central station or in the palatial new offices on the

Boucher Road with a begging bowl? You have supplied the buses and trains. What muscle power do you have to negotiate anything?

Mr Johnston: We have considerable muscle power. Translink is there to provide the service, and it is up to the Department, as the authority, to agree the standards of that service. In fact, Translink already runs a lot of services that are not profitable, and, occasionally, it comes along with proposals to drop ones and is generally sent packing. That is not always the case, because some of them are so underused.

Mr Dallat: A few short years ago, they put the accounts into a skip and headed off to Wicklow for a weekend after taking £20 million more than they should have for upgrading the Bangor to Belfast railway. That is the background in which you are negotiating.

Mr Johnston: I know, but I suspect that it learnt quite a number of lessons from that, and there have been a number of reviews since that. Its efficiency is under constant scrutiny. It will need constant vigilance; there is no two ways about it.

Let us not kid ourselves: if it were a commercial operator, we would have the same problems. In fact, we might have more. I speak regularly to the passenger transport executives in Great Britain, and they have much more serious problems because they just drop the route and dump the problem on to the councils. Translink cannot do that.

The Chairperson: There is no contract. Translink can really do what it likes.

Mr Johnston: It cannot, and does not, take off routes without the Minister agreeing to it. Is that fair?

Ms Breen: Yes.

Mr Dallat: Sorry, Anne, I do not wish to interrupt you.

Ms Breen: I was just agreeing. If Translink is proposing service changes, it has to come —

Mr Dallat: I respect Sean's presentation and enthusiasm. I am trying to visualise this as part of a modern progressive western society, and what I see is some poor craythur in the Kremlin before perestroika and glasnost trying to organise a public transport system. I know that that is being slightly cynical, but try to convince me that that is not true, Sean.

Mr Johnston: Metro was reorganised. It is cited as best practice in numerous reports that I have read from other jurisdictions. Everybody has their own view on whether it is or is not. However, it is probably designed in a way that is as efficient and effective as modern public transport in cities can be, and, hopefully, we will augment it by rapid transit.

I suspect that we have a reasonable service in rural areas, given the level of coverage from the main towns and villages around the country. From the ones that I know, and those that other people I speak to know, it seems reasonable. The fact that we joined school transport with that makes it more viable. That is where it goes awry in Great Britain: most places there do not have that. We could do a lot more of it through the work in Dungannon and try to integrate it a bit more and tackle the issues, including the rural roads and buses up and down the country roads and the back roads. There is a lot to be done. That does not need to be in Translink's contract. However, there are things that could and should be done.

The other issue is technology, which is something that you pointed out in the other report you issued recently. We need better information for passengers. We need to track the vehicles better. You are talking about a modern transport system; we need to make sure that that is what happens. We are not going to get there in 12 months. However, that should be, and is, our ambition. That is where we need to be heading.

Mr Dallat: Finally, finally; I know that you provide the buses and trains. However, I am very conscious that there is no provision in these sophisticated accounts for any kind of replacement of either the track or the rolling stock on the service between Belfast and Dublin. What will happen if, next year, one of the intercity train sets goes on fire, as happened recently? Would you then have to go back to the Minister and say that Translink needs new trains?

Mr Johnston: Do you mean if there is an accident or if a wholesale replacement is needed?

Mr Dallat: I just mean, Sean, and you know it, that the train sets are clapped out, burned out and constantly haemorrhaging passengers to buses that clutter the roads, instead of being a modern, intercity service that is fit for purpose and gets you there on time.

Mr Johnston: A consultation on that has just finished, or is about to finish.

Mr Dallat: Will that be part of the contract?

Mr Johnston: The service will be part of the contract, but the replacement of the rolling stock —

Ms Breen: The need for future capital investment is not going to change. There will still be the need for capital investment in the type of system that we are working. We will obviously have to be transparent in how we are doing it, what we are investing in, how that feeds into the equation and how it is reported through into Translink.

Mr Strain: We have to look at the public service obligation that requires that to be dealt with in the service agreement with Translink. If the public service obligation standards are set as to what that service should be, and the funding is available to meet that public service obligation, it will be set out in the contract as meeting the PSO but not overcompensating Translink for providing that service.

Mr Johnston: We should not kid ourselves. There will be pressures on capital funding, such as the relaying of lines. Although we have new trains now, x number of years down the road, they will run out. You are right to say that the Dublin one is maybe heading in that direction. That is the model, and that funding will need to be taken into account, assuming that we give them some more funding for that. It is the same with relaying the tracks. That is a costly business, too, from time to time.

The Chairperson: You said that you reckon we are getting there. My final point is this: are we ever going to get to the place we want to be with a structure that was put in place in 1967 and is now outdated? Is it now time for change? What is the Department doing about that, with the Northern Ireland Transport Holding Company and all that nonsense?

Mr Johnston: I am not sure. We await your report on that.

The Chairperson: There must be a more modern system rather than an outdated system from the Ulster Transport days. We are still hearing about Ulster Transport reserves of £50 million, which the Department is now trumpeting as the £50 million "other" reserve. Surely, in 2013, with those outdated structures, it is time for change.

Mr Johnston: I think that this is less about structures and more about services. We focus too much on structures. If we focused more on the services and outcomes, we might make more progress. In the contract, it is the services that we need to focus on; the service delivery, the service delivery model, the design of the services and the interface with others who provide services. Frankly, I am less worried about structures than services.

The Chairperson: I thank all three of you for your presentation. The meeting has been reported by Hansard, and I am sure that you will want to have a look at that and the answers that you gave. There are a number of letters and reports that we want sight of, so we will write to you informally on that.