



Northern Ireland
Assembly

Committee for Employment and Learning

OFFICIAL REPORT (Hansard)

Steps 2 Success: Department for
Employment and Learning Briefing

25 June 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Robin Swann (Chairperson)
Mr Chris Lyttle
Mr Fra McCann
Ms Bronwyn McGahan
Mr Pat Ramsey
Mr Alastair Ross

Witnesses:

Mr Colum Boyle	Department for Employment and Learning
Mr Brendan McCann	Department for Employment and Learning
Mr Tony Montgomery	Department for Employment and Learning

The Chairperson: I welcome Colum Boyle, director of employment; Brendan McCann, head of the employment team; and Mr Tony Montgomery, from the employment service.

Mr Colum Boyle (Department for Employment and Learning): I just want to take a short look back over recent weeks and put in context why we were not able to come here today and let you know where the full outcome of the Steps 2 Success procurement process is at this stage.

First, I want to make everyone aware that the Steps to Work contracts have now formally ended. They ended on 31 May, and we are in transition mode as we move towards the implementation of Steps 2 Success. We had a significant delay around the regulations; there were issues about the regulations. First, we took the regulations through DSD and the Social Development Committee but they were not approved in early May. The next stage was that the regulations went forward to the Executive, where they were agreed in early June. The Social Development Committee voted to pray against the regulations to have them annulled, which was laid on 5 June. There was to be a scheduled debate to annul on 23 June and, in between times, the Committee was good enough to allow officials to come back to have another discussion with it and another presentation to it about the decision to have the vote. At that subsequent meeting on 19 June, the Social Development Committee decided to rescind. We set out the full implications of failing to agree the regulations, which were that we would not have an adult return-to-work programme or an adult employment programme for Northern Ireland to run. That ceased to be an issue at that point.

During that period, we had to cease all preparation of work for the implementation of Steps 2 Success. We have a small project team, which was focused on preparing a briefing for the Social Development Committee and a briefing, which we did do, for the annulment debate on 23 June, which then did not happen. At that stage, we also had to halt everything else that was going on.

We had a gateway review, which is an internal process in the Civil Service, to make sure that everything that we are doing by way of delivery of the new programme is safe and secure and sound. On the Thursday night before the gateway review was due to end, we were sitting on green/amber, which was all systems go, and we then got word of the debate and the vote to pray against the regulations, which put everything back on its heels. We went from green/amber to red. Everything was done at that stage to try to pull us back round. We have lost the guts of three weeks, or maybe slightly more than that, in trying to work our way through to get the final stages of due diligence done. That is where we are at now.

Central Procurement Directorate (CPD) is doing its final quality assurance on the procurement process. It is a very specific, precise and painstaking process that took a long time and a long time to get right, and we need to make sure that it is right before anything gets communicated. That is happening. We are just making sure that all the financial issues and fitness-for-purpose issues on any of the legal concerns that may be hanging round as last minute issues are all sorted out. Following that, we need to brief the Minister, and the procurement process is scheduled to conclude this week with the intention-to-award letters. We hope to have those issued by this Friday, so all organisations will be notified of the outcomes, barring any last minute hitch with the due diligence. That can sometimes happen, but we do not anticipate that happening.

The process then concludes with a standstill period, which is set in the procurement regulations. That standstill period will run and finish on 9 July, which will allow us to come back on 9 July and share with you fully what the outcomes are. We will be happy at that stage to take any questions on how the process was run, what criteria were used, what the deliberations were and so forth. That is why 9 July is the next big date after today. Following communication to the Committee on 9 July, there will be an intention on the part of CPD and us to publish the outcome, probably on our website, as we did in the stage 1 process. It is quite a legalistic process, if you like. It is very enshrined in procedural steps, and we have to follow those right through, which we have done. During the standstill period, the Department, the Minister and anybody associated with the procurement cannot comment in any way on any of the outcomes whatsoever. Comment can happen only after that standstill period has passed.

The Chairperson: Colum, you mentioned that any due diligence may cause a delay. If there was a delay because of due diligence, would that delay the briefing here on 9 July?

Mr C Boyle: It could potentially do that because it would not allow us to proceed with the intention-to-award letters. So, it would stall the whole thing again.

The Chairperson: You will let us know as soon as possible.

Mr C Boyle: Absolutely.

The Chairperson: On the standstill period, you mentioned the legalistic nature of this process. Through speaking to some unsuccessful bidders at stage 1, I know of the legalistic nature of this. If there is a legal challenge issue, at what stage or on what timeline can that be done, or where would that sit within the time frame of what you are proposing?

Mr Brendan McCann (Department for Employment and Learning): Again, it would be for the lead contractors or the lead bidders to consider their position once the results are notified. It is expected that they would use the 10-day standstill period to mount any challenge that they are thinking of. So, again, that is one of the reasons why we have the 10 days. It gives them the opportunity to consider the results. As well as getting their own results, they see the results of the other competitors in the field and, indeed, in the contract lot that they have applied for. So, that gives them the information to consider their position overall, and we expect that any issues would be raised in that time frame.

Mr Tony Montgomery (Department for Employment and Learning): Chair, I have a slight correction. Sorry, Brendan. Brendan is my boss, hence the apology. *[Laughter.]* The unsuccessful bidders see only the marks and comments of the top bidder in that contract area. They do not see the full range of them. It is a minor point.

The Chairperson: You may or may not be able to answer this question, but I will ask it anyway. Of the successful bidders, will the subcontractors — that pipeline of supply — have been proofed at that stage?

Mr C Boyle: We had the same issue at stage 1 when we looked at supply chains wherever the organisations were. We have looked in detail at supply chains in stage 2.

The Chairperson: I take it that, if they have been successful in stage 2, they can issue contracts to their supply chain only post-9 July.

Mr Montgomery: Yes, they will have informed us of the supply chain — that is part of the assessment process — but they will not necessarily have a legally binding agreement with each member of the supply chain.

Mr B McCann: So, it is their proposed supply chain. Indeed, it is subject to them formalising the agreement with the proposed supply chain. If there are any changes to the proposed supply chain, they will let us know.

The Chairperson: If there is a change to the supply chain, could that invalidate their award, having been successful?

Mr C Boyle: No, I think it is a matter of them agreeing that with the Department. So long as we are satisfied that the supply chain is robust enough, it would not invalidate it, unless it was a wholesale change and what was set out in a bid was totally transformed and unrecognisable. I think that you would be into a different scenario if that was the case.

Mr F McCann: This is probably like a shadow boxing match and you are building up for the real one on 9 July. Anything that I would say, I will leave until then.

I just want to mention one point for clarification, because I am on the Committee for Social Development. When this initially came to the Committee, the majority of Committee members believed that its implementation would have an impact — certainly from a DEL perspective — on quite a number of people. That is why the Committee decided to go for a prayer of annulment. The Committee pointed out that, had the information that later become available been available at that Committee meeting, we might have gone down a different road. When the DEL people came back and the debate took place, it was at that meeting that it was decided to thing —

I know that Colum is not intentionally trying to put the whole delay on the Committee for Social Development, and there were mixed signals being sent to the Committee in terms of the provision of information.

Mr B McCann: I think that there has been a lot of learning for us all in this process.

The Chairperson: That is very diplomatic, Brendan.

Mr P Ramsey: I think that we have to acknowledge the intensive process that you have all been involved in, and we wish you well leading up to the final determination. Colum, I was just remarking that your hair was much darker before the process started. *[Laughter.]*

The Chairperson: Do not bring Brendan into it.

A Member: Brendan had much more. *[Laughter.]*

Mr C Boyle: Thank you for that. You are probably right: it probably was much darker.

The Chairperson: No other member wishes to ask a question. Members, if you could put the meeting at 11.30 am on 9 July into your diaries. Colum, will you keep us briefed as much as possible?

Mr C Boyle: If anything changes, we will make sure that you are aware.

The Chairperson: Thank you very much.