



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Desertcreat Training College: Governance
Arrangements and Progress

7 March 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Mr Jim Wells

Witnesses:

Mr Brendan Smyth	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 Deputy Chairperson: I invite and welcome the officials to the table. I welcome to the Committee Deputy Chief Constable Judith Gillespie, chair of the Desertcreat College programme board; Louise Warde-Hunter, the deputy director of the policing policy and strategy division in the Department of Justice (DOJ); and Brendan Smyth of health estates investment group in the Department of Health, Social Services and Public Safety (DHSSPS).

The session will be recorded by Hansard, and the transcript will be published on the Committee's web page. At this stage, I invite Judith Gillespie to give a short presentation, after which the members will, obviously, have questions. I am sure that you are used to the process by now. Thank you very much.

Deputy Chief Constable Judith Gillespie (Police Service of Northern Ireland): Thank you very much, Deputy Chair. My colleagues have been introduced. I welcome the opportunity to come here today to brief the Committee on progress to date on the Northern Ireland Community Safety College at Desertcreat.

I want to say at the outset that, as chair of the programme board and senior responsible owner for the programme, I am very conscious of the unique partnership opportunity that it presents. However, I am also very conscious of the onerous responsibilities that I carry for governance and stewardship of public money. I take those responsibilities very seriously.

I hope that today will serve to reassure the Committee of the sound governance arrangements that are in place for the college programme. Although we have suffered a significant and serious setback, given the cost-escalation issue that emerged just before Christmas last year, we have solid plans in place to deal with the emerging issues going forward. In all our answers, we want to be as open and

as helpful as we can to the Committee. However, as you mentioned, Deputy Chair, I am sure that you all appreciate that we are at a very sensitive stage in a live procurement process. None of us wants to see that compromised in any way. Therefore, if you ask questions that we feel would, by necessity, divulge commercially sensitive information, we will flag that up and say that we do not feel that it is appropriate to answer them in public session. We may be able to take some of those questions in closed session. If you ask other questions that, for whatever reason, we do not have the detail on, we would be happy to come back to you as soon as we can to give you the answers that you need.

At the outset, it may be useful to make some very brief remarks about the rationale for the Northern Ireland Community Safety College. Although I am a senior police officer, I think that I speak for all three services — police, fire and rescue, and prisons — when I say that our current training facilities are inadequate and increasingly degenerating. I think that that is fair to say. To maintain those facilities in the longer term, even to meet minimum health and safety standards, will incur very significant — in fact, nugatory — costs. Indeed, projected over time, the cost of maintaining the current facilities is greater than the cost of building a new integrated training facility. That, of course, does not say anything about the unique opportunity to put Northern Ireland on the map for all the right reasons with a groundbreaking partnership initiative and a training facility that will literally be world leading. Indeed, I have to say that it has already provoked considerable national and international interest as an exemplar of public service partnership training.

Throughout the lifetime of the programme, the gateway reviews of the Office of Government Commerce (OGC) have repeatedly pointed out the tangible commitment to the programme over many years on the part of all the services and stakeholders. So, it is also a huge opportunity to provide a real boost to the local construction industry through the employment opportunities that building the college and its subsequent operation will bring. As the Committee will know, planning permission has already been granted for the college, which was a very significant step forward.

All that said, I know that, understandably, there are very significant concerns regarding the escalating cost. I am very happy to deal with the Committee's specific questions on that. I know that you want to discuss governance, so I want to say that there is a world of difference between a well-governed programme in which there has been very significant human error and a poorly governed programme. I hope that I will convince the Committee that this programme is the former rather than the latter.

I understand that you have received a written brief that outlines the cost overrun, when it was identified and how it arose. The programme board received regular reports from the design team through cost plans and pre-tender estimates. On eight separate occasions between 23 May 2011 and 26 October 2012, the programme board was assured that the estimated cost for construction was on budget. The scale of the cost overrun is very considerable. As soon as the issue was identified, remedial steps were put in place to try to gain a better understanding of what went wrong, what steps needed to be taken to address the matter and who needed to be briefed.

I stress that the design consultants have accepted full responsibility for the cost error. With the programme board's oversight, they have provided specific assurances regarding the actions that they are going to take to address the problem. I am sure that the Committee will want to get into that in a little more detail. The programme board has taken very significant proactive actions to restore confidence in the programme, to close the affordability gap through a bill of reductions and to keep key stakeholders briefed. At this stage, Ministers wish to receive further information regarding affordability and value for money before proceeding any further. That is entirely understandable, and we are working to provide that information as quickly as possible.

I know that challenges are not uncommon in major capital construction programmes. However, I want to finally reflect on the real importance of this programme for Northern Ireland, for the three services and for the safety of the community. Daily, the three services put themselves at risk to keep the community safe, and we have had very recent reminders of that. Therefore, they deserve fit-for-purpose training facilities, which they currently do not have. Is this a very significant setback? Yes. Is it an insurmountable show-stopper? No. I am committed to working through this difficulty with integrity, sound governance and leadership. All that said, if I may, I will invite my colleague Louise to make a few brief comments before I take your questions.

Ms Louise Warde-Hunter (Department of Justice): Thank you. The Committee has a specific interest in the project's governance arrangements, and we know that you wanted to talk to us today about its timeline, budget and the progress to date. Given that, I will focus briefly on the role of the two Departments in the governance of the community safety college. You have our submission to the

Committee, in which there is an outline of the governance arrangements. You have also received a detailed paper that is, in fact, the Desertcreat memorandum of understanding, post-business case.

Given that the Desertcreat college is not and will not be a separate legal entity, accountability for the programme rests with the two accounting officers of the Department of Justice and DHSSPS. The accounting officers are, therefore, the co-chairs on the Desertcreat steering group, which, in governance terms, is at the top of the chain of accountability. It is responsible for ensuring that the programme meets its strategic objectives, that it has the necessary funding in place, and that appropriate governance arrangements are in place throughout to ensure the commissioning of the new college. The group meets at key stages of the project, such as to approve the awarding of contracts.

Since the inception of this initiative as a joint project, the two Departments have been working together closely to produce an integrated training college for the three services. That collegiate approach has been very important since the cost issue arose in December last year, which the Deputy Chief Constable mentioned. The two Departments have been in close contact and have been working together at various levels. The two Ministers have met to discuss the cost issue and its implications, and the accounting officers have convened two sessions of the steering group — one in January and the other earlier this week. At various levels of management, professional staff have been collaborating to provide joint advice to the programme team.

The programme board is on the next tier down in the pyramid of governance. It reports to the steering group regularly and has been delegated with the lead responsibility for shaping the college's success. Both Departments are also represented on the programme board at a senior level. Given the cost issues that have emerged, in leading the steering group, the accounting officers have briefed Ministers. In taking account of the Ministers' views, they have directed that the twin issues of affordability and value for money should be addressed to the satisfaction of both Ministers before any further work is done in going forward. As the Deputy Chief Constable said, the critical point is that value for money and affordability must be addressed to the Ministers' joint satisfaction.

I hope that that gives you enough information on governance for the moment. I am happy to answer members' questions.

Deputy Chief Constable Gillespie: Deputy Chair, if it is helpful to the Committee, I have enough copies of a schematic here for each member. Sometimes a picture is worth a thousand words, so, if it is helpful, I am happy to pass those schematics round for the Committee's information.

The Deputy Chairperson: OK; thank you. As members get their copy of that document, I will ask some broad questions before asking some specific ones later. First, the Deputy Chief Constable said in her presentation that this is a complex and unique project. I think that people appreciate that, and I acknowledge the leadership that has been taken on such a complex and difficult project. One of the reasons that we asked for this briefing is that, in some sense, there seems to be a lack of clarity about who is leading the project. The letter to the Committee states that the Department has the lead role, and the Official Journal of the European Union (OJEU) advert said that the procurement authority was the Policing Board. Do you have a comment on that?

Deputy Chief Constable Gillespie: I will make my own comment, and Louise may want to come in after me.

As you know, I chair the programme board in the role of senior responsible owner. That title makes it pretty clear to me where executive decisions are made. Of course, all those decisions are made with the support, knowledge and endorsement of the steering group and Ministers. Ultimately, there is the accounting officer responsibility and there is my responsibility as senior responsible owner of the programme. You can see in the schematic that the steering group sits at the top of the pyramid, then there is the programme board, the programme team and the various projects. You can also see in the second schematic that there is the programme team and then the programme broken down into the various detailed projects.

So, all the guidance on programme management puts the responsibility on me, as senior responsible owner, but I am not going to take that responsibility without briefing Ministers and ensuring that I have their support and endorsement and that of the steering group.

The Deputy Chairperson: Can I ask what the relationship is between the Department and the Policing Board? What engagement goes on between those bodies?

Ms Warde-Hunter: Certainly. I am very happy to address that. My role in heading up the police policy and strategy division means that I am the DOJ's representative sponsor with the Northern Ireland Policing Board. The Policing Board owns the police estate, which the PSNI operates and manages. The chairman of the Policing Board sits on both the Desertcreat programme board and the steering group. So, there is an intimate link with the Policing Board's locus, given its representation on those two key groups.

The Deputy Chair asked about the Departments' role. The Department of Justice is the sponsor Department, and this target in the Programme for Government is against the DOJ's name. So, quite clearly, the Department of Justice has a very specific responsibility in supporting the development and, indeed, the project's ultimate success. However, reflecting the joint, collaborative nature of the venture, we are enjoined with DHSSPS, through the two accounting officers and up through the Ministers, to be accountable for the use of Executive moneys in the construction of the college.

The Deputy Chairperson: I understand that. If we are talking about the relationship between the Department and the Policing Board, how many times has the Department briefed the Policing Board on this project, or is there something in writing that says that that should be done on a quarterly, monthly, or yearly basis?

Deputy Chief Constable Gillespie: Perhaps I could answer that. The chairman of the Policing Board sits on the programme board with a board official. They attend the monthly meetings of the programme board. However, when this particular issue arose in early December and was confirmed in late December, I moved very quickly to make sure that there was a further specific briefing of the resources and improvements committee of the Policing Board. By memory, that was done on 16 January. Also by memory, the full Policing Board was then briefed in private session on 7 February. So, when particular issues arise, there is a specific briefing by me, as the senior responsible owner, to the Policing Board. However, before that, there were other open and closed session briefings to the Policing Board on the Desertcreat programme.

I know that you wanted to make a comment, Brendan.

Mr Brendan Smyth (Department of Health, Social Services and Public Safety): The Deputy Chairperson made a comment about the procuring authority as mentioned in the OJEU notice. A vehicle is required that would act as the procuring authority. I think that, in discussion between the three services, it was deemed that the most appropriate vehicle for that would be that that was named in the OJEU notice. So, that was a mechanism for transferring funds and procuring buildings.

The Deputy Chairperson: Can I just go back to the outline business case? There is now a bit of commentary about whether consideration should have been given to one college or to three. As part of the outline business case, was there a view on what one college, as opposed to three, would cost?

Deputy Chief Constable Gillespie: You are right to say that a number of options were considered in the original outline business case. One of those was a co-located option; in other words, three separate colleges for each of the three services, based in the same location but not an integrated facility. That option was considered, but it was thought that it would not deliver the same benefits as an integrated training facility, particularly where partnership, cost-sharing and sharing leadership training were concerned. There are many areas of commonality among the three services. The skills and attributes that you would expect of a senior police officer you would also look for in a senior prison officer or fire officer. So, the co-located option did not deliver the same business benefits as the integrated option. However, it was certainly one of the considerations.

The Deputy Chairperson: Before I bring in other members, I will ask a final question. Has the design team learned any lessons? Should miscalculations that were made in the terms of reference have been identified earlier? Was the procurement process rigorous enough to come up with the appropriate design team?

Deputy Chief Constable Gillespie: Perhaps Brendan can speak about the procurement.

We have had very robust exchanges with the design team on lessons that were learned. Even prior to this issue's arising, we had some very robust exchanges with the team. When this issue arose, the project lead from the design team was asked to attend the programme board meeting in February. He provided a presentation in which he accepted full responsibility for the mistakes that had been made. Frankly, we were not convinced that the design team was taking our concerns seriously, and I wrote to its chief executive, who very quickly, and with great alacrity, gravity and urgency, responded by sending another senior representative to the programme board in March.

The team has now provided a detailed and specific list of remedial actions that it is going to take. We are now much more reassured of its willingness and competence to continue with the programme. We were considering all options for the design team, including the nuclear option of ditching it and procuring a new one. I think that the programme board is now much more assured about the actions and the specific and tangible progress that the design team has made to address our concerns. So, there has been very significant learning.

However, I have to say that, throughout my time on the programme board, we have received almost monthly briefings from the design team over the period that I mentioned to you — from 2011 to the end of last year — in which we have been assured that the programme was within the cost budget. In fact, on the advice of the health service's centre of procurement expertise (COPE), an independent assessment of that budget was done just before we went out to tender. That assessment confirmed that, within 2% to 4%, the cost estimates were correct.

Brendan, I do not know whether you want to address the design team's procurement.

Mr Smyth: The design team was also procured through an OJEU notice. We trawled for and got worldwide experience in our appointment of the design team. As part of that competition, applicants had to deliver sketch plans of their proposal. That, allied to other criteria, was how we selected the design team. As the Deputy Chief Constable said, over the past two years of the design process, the team repeatedly reassured us that the project was on budget. The team's cost estimate fluctuated between £100 million and £103 million, and that gave us a high degree of confidence.

Also as part of the procurement process, we requested an independent validation of that cost. That was done, and as the Deputy Chief Constable said, it agreed with the figure, with an uplift of £2 million to £3 million. So, that was not something that gave us concern; we felt that it was manageable within the contingency funds that we had in the scheme. Unfortunately, there were errors in that calculation, which were attributable across the design team and not just to the cost consultants. The information that it was basing those estimates on was not necessarily that that went out in the invitation to tender (ITT) documentation.

So, we are now aware why there was a significant difference between that estimate and what became a revised pre-tender estimate just prior to the receipt of tenders. That revised pre-tender estimate seems to have accurately reflected the costs of the proposal as they were issued in the ITT documentation. However, that represented a very significant uplift on the previous pre-tender estimate.

The Deputy Chairperson: You mentioned the concept of an independent check. Will that process remain in place as this project goes forward?

Mr Smyth: It will remain in place. Unfortunately, that independent check did not alert us to the discrepancies, because it was not as robust as it should have been. There were errors in it, and it was based on insufficient and incomplete information. Although it indicated a very modest uplift, it failed totally to capture the significant uplift that was the result of the market pricing. We understand that there has now been an examination of why that was, and we are confident that we know the logic and rationale behind such a significant difference. It is attributable to a wide range of factors and not to one single factor — a web of factors contributed to it.

Deputy Chief Constable Gillespie: I will add that the design team has replaced its cost consultants. So, the company that was involved in that cost-consultant piece has been replaced. I think that it was a very important point of reassurance to the programme board that the same mistakes would not be made again.

The Deputy Chairperson: I have a final question. How do you reassure yourself that the structure now is robust?

Deputy Chief Constable Gillespie: We have taken considerable proactive remedial steps to address concerns. For example, I have set up a confidence recovery group, as I call it, which has met weekly since the middle of January. That brings some key stakeholders together with some external advisers and critical friends on the programme to challenge us on our thinking. The key element of that is restoring momentum and confidence in the programme.

In addition, we invited an Office of Government Commerce independent gateway health check review to the procurement project. It has just reported in full with some recommendations. I have also asked for an internal audit of the programme governance and of the communication between the design team and the programme team to make sure that, if there are lessons to be learned, we will learn them.

We have given key briefings to stakeholders, such as the three service boards, the Ministers, the steering group, the accounting officers from the two Departments, the service associations and the unions and so forth. So, we have put significant remedial action in place, and we are also working through a very detailed bill of reductions. The programme team, together with the three services, are sitting down to see how can we close the affordability gap between that obvious error in cost and what is in budget for the programme. So, significant progress has been made on that.

Mr Easton: I had better declare an interest as Assembly Private Secretary to the Health Minister. Where do I start? You mentioned the design cost error and said that it had been accepted. How much did that mistake cost?

Deputy Chief Constable Gillespie: The variance is in the public domain, and there is a difference of around £30 million between what the capital cost will be and the design team's estimated cost. As I said, we are working through a very detailed bill of reductions to try to reduce that £30 million gap to something that is much more palatable.

Mr Easton: There have obviously been meetings between the different Departments, and I know that you are looking at ways of reducing that financial gap. Has there been any agreement to add extra money to that if necessary?

Deputy Chief Constable Gillespie: No, there is no any agreement on that at this stage. I guess that that would be dependent on whether we will have to submit a revised business case if the costs are of such significance.

Mr Easton: Who originally detected the design flaw? Was it the PSNI, the board or the architects?

Mr Smyth: I will answer that question. It was not a design flaw as such. We were happy with the design of the complex, but the estimate of its cost was clearly wrong. The detection of that error came about as a result of market intelligence.

In the procurement process, we had what we described as a works cost limit, which we set at £103 million, and we asked contractors to bid at less than that. As contractors gathered their prices and toted them up, they realised that they were not going to be able to deliver the project for that sum. I think that practically all the contractors at different phases in the last two to three weeks of the tender period contacted either myself or members of the project team to convey their concerns that they did not feel that the project was achievable within the existing works cost limit. As a result of that intelligence, we removed the works cost limit. At that point, we also commissioned a revised pre-tender estimate, which proved to be a more accurate estimate of the actual costs. It fairly reflected the returns that we received from the market.

Mr Easton: So, there was nothing wrong with the design; the team got badly wrong the cost of the items to build it?

Deputy Chief Constable Gillespie: That is correct.

Mr Easton: Is that consultant team still in place? Has the person who was involved been removed? What way has that worked out?

Deputy Chief Constable Gillespie: The cost consultants have been removed. They are being replaced by a new cost consultant company. As I said earlier, we considered all of the options for the design team, including replacing it with a completely new design team. We took legal advice on that and assessed the risks of all the options. Given the presentation that we received from a senior member of the design team company at the programme board earlier this week, we are much more reassured that the design team is fit for purpose and competent to carry on the programme. We will, obviously, keep that under constant review, but it has certainly assured us of its understanding of the gravity of the situation.

Mr Smyth: It is also fair to say that there have been very significant changes to some of the most senior people in the design team. It has introduced two new individuals at a very senior level who have given a lot more confidence to the project team. They have a vast track record of delivering complex and large projects to time and on budget. Part of the problem with the previous design team was that it was clear that the communication among its various strands was not robust enough and was not properly managed. That, in part, was responsible for the divergence between the initial pre-tender estimate and the final pre-tender estimate.

Mr Easton: So, the consultancy team was paid for the work that it did, even though it was a bit of a mess. How much did its incompetence cost?

Deputy Chief Constable Gillespie: I am not sure of the answer at this stage, but I am very happy to come back to the Committee with the answer.

Mr Smyth: Is the question about the specific cost to the cost consultants or the design team as a whole? The design team, as a whole, has to maintain its fee in line with its original fee tender. That will not cost any more, but it is fair to say that those consultants will have done work. That is an internal matter in the design team; we would not necessarily know the commercial arrangements among various elements of that design team. We have an overall budget within which it still has to deliver its services.

Mr Easton: Will the extra work to get all the finances stacking up for the building material and whatever cost us more money?

Deputy Chief Constable Gillespie: No. We have made it very clear that all the additional costs incurred by its error will be borne by it.

The Deputy Chairperson: Is there a figure for the overall consultancy cost, or is that a percentage of the overall project?

Mr Smyth: I think that the overall consultancy cost is in the region of £12 million.

The Deputy Chairperson: Is that pre-fixed?

Mr Smyth: Yes.

Mr Dickson: I appreciate you coming along. These are probably things that we did not want to hear about a public procurement contract or process. We will have to see how you work us out of that. There are some things that concern me about it. Having not only taken the design team's costs but having, supposedly, had those independently checked, we have been doubly poorly done by. Realistically, how can we have confidence in the project on the basis that two parts of it have failed us?

You talked about how you remediate all of that. The dreaded word "reductions" was used. That implies that you will cut things out, cut corners, use cheaper materials or put something less into it than would have been there at the cost that you originally were given, even though it was not in the indicative costs. That seems to me to be a failing right across the public sector when it comes to procurement: they get the price and then start to cut things out. How can we be assured that we will get what is required to deliver the service for the users of the building? How can you assure us, as a community and, ultimately, as a Government, that those facilities will provide that which was specified without corners having been cut?

In a slightly different area, can I ask about the programme team and what is going on underneath all that? What work is ongoing to bring the current service training organisations together? I noticed that 2014 is when you will have the management structure in place for the delivery of training at Desertcreat. What work is ongoing to harmonise contracts and deliver all that? Another area, which may not be your area but will hopefully run alongside the creation of the building and the project, will be who will be inside that building and what will they be doing?

Deputy Chief Constable Gillespie: Your first question about how we can have confidence going forward is exactly the question we asked of the senior representative of the design team at the programme board on Tuesday, because, as SRO for this programme, I share your concern absolutely. Prior to his appearance at the programme board on Tuesday, we were not getting answers or tangible assurance from the design team company that it was taking our concerns seriously. However, since the end of last week and the briefing that we received at the programme board on Tuesday, I am much more assured. They have replaced senior key personnel in the design team. They have based people locally so that communication is much more direct, clearer and more regular. They are taking our concerns with great gravity, so I am much more reassured.

Of course, I am conscious that this is one area where, should this all go horribly wrong again — heaven forbid that that should happen, and we will be working hard to make sure that it does not — the first question that we would be asked would be, "Why did you carry on with the same design team that you knew had let you down before?"

Being doubly let down is, I think, unprecedented. I am not sure whether that has happened in Brendan's experience, but we felt very disappointed indeed about being doubly let down. The second cost consultant who did the independent assessment was brought in on the advice of the health service's centre of procurement expertise (COPE) as a belt-and-braces approach. We thought that we were getting that second opinion that would give us absolute assurance going forward. So, yes, we did feel doubly let down. However, I think that the design team has worked hard to try to restore our confidence.

Your second question was about reductions. This is the first stage of working through the reductions. The three service organisations have got together as the client team and worked hard to take out costs that we think we can reduce without compromising the ethos and functionality of the whole programme. That is in three layers. The first layer is those costs that should not have been included in the first place. An example of that is the design team including furniture. The furniture comes out of a separate part of the budget, so there was a bit of double counting there. That should not be in the cost consultant's estimates, so that is easily removed. Certain things, such as furniture, can be easily taken out of the costs.

Going on to the second layer, you referred to reducing costs in terms of cheaper materials and finishes. We have worked through that, and, significantly, we think that we can reduce the cost without any compromise to the quality of the building.

The third layer is the painful stage when you start to look at potentially reducing the functionality. It is at that stage that we need to consider matters very carefully. However, there are areas where we think that, perhaps by moving the position of the buildings so that there is less road infrastructure to lead to them, you can reduce costs without reducing the ethos and functionality of the college. We are working through that and I am quite positive about how we can reduce the significance of the affordability gap through that. Then, of course, if we progress to the next stage, we can work through that with the preferred bidder when the time comes.

Your third question was about the amalgamation and integration of the current service training. In the programme work streams governance structure that was handed round, you will see that one of the projects is business transition. Basically, that is the part of the programme that brings together the three services and works through how we are going to share resources; how we are going to integrate training; how we are going to work with Skills for Justice to integrate training; and how we are going to share managed services on the site, etc. All of that is in that business transition project.

Mr A Maginness: Thank you for coming. It has been very helpful to hear from you at first hand. I still do not understand how the independent cost people got it so wrong. Perhaps, you do not understand either. It seems to me to be remarkable that they got it so badly wrong. Their role was to assist you and to make sure that everything was OK.

Mr Smyth: Their role was to provide the independent verification of the cost. They were another pair of eyes looking at it afresh. They will probably argue that it was not all their fault and that some of it was that the information they were asked to price did not fully reflect the information that went to market. Nonetheless, I think it is a clear failing on the part of the cost consultants in the project, the cost consultants who were asked to do that cost verification check and the overall design team in terms of its ability to communicate within the team, to be clear about what the quantity surveyor was required to include in his estimates and the level of market intelligence about some of those elements.

Some elements have increased since the start of this process. There is a much greater emphasis on security, because of the environment that has developed, and we have had to increase the specification of such things as the perimeter fencing and the amount of blast-resistant glazing. The level to which they initially were designed has had to be enhanced, and that has impacted on the cost and specification of various elements.

It is also important to note that there is a huge amount of infrastructure works in the project. At the moment, it is a 240-acre site of rolling pasture land, and roads, perimeter fencing, drainage, electrical, mechanical and sewerage infrastructure is going into that. So, there is a huge amount of work below the ground. There were errors in the market intelligence that the quantity surveyors were applying to some of the rates for that type of work, and there has been a significant uplift in the civil element of the scheme, as well as those security-related elements. However, there is no excuse for them getting this wrong, Alban. It is professional incompetence, and that has been made very clear to the design team.

Mr A Maginness: May I ask a more general question? The design team, obviously, develops a design, and the design is in accordance with your specifications.

Mr Smyth: It is in accordance with our brief and our specification.

Mr A Maginness: Yes. You are dealing with three different disciplines: police, fire and ambulance.

Deputy Chief Constable Gillespie: The Prison Service.

Mr A Maginness: Yes; sorry. I suppose, in a sense, there are four disciplines. Would you say that? I know the combination of ambulance and —

(The Chairperson [Mr Givan] in the Chair)

Deputy Chief Constable Gillespie: The three services that are putting capital funding into the programme are the police, fire and rescue, and prisons. Of course, we would welcome the involvement of the Ambulance Service in practical training on site.

Mr A Maginness: It is not involved.

Deputy Chief Constable Gillespie: It is not bringing any capital to the project.

Mr A Maginness: Sorry, I made a mistake. I was going to say that my making a mistake is a rarity, but, unfortunately, it is not. Trying to integrate at least three disciplines into a college is a lot of work and takes a lot of imagination and skill.

Deputy Chief Constable Gillespie: You are absolutely right to say that, but it is important to say that, for many years, the PSNI has enjoyed excellent, constructive working relationships with our colleagues in the Northern Ireland Fire and Rescue Service and the Prison Service. In many cases, in particular with the Fire and Rescue Service, we have run joint exercises, joint scenario planning and joint major incident planning together.

Those relationships are now being built on to the point where our respective training departments have been working together now for three years to integrate the curriculum and the facilities and to see what we can share and which bespoke facilities need to be provided for each of the three services.

Firearms training and public order training, for example, are bespoke to the PSNI. Fire burning facilities are bespoke to the fire service, and there is a mock prison that is bespoke to the Prison Service. However, there are lots of other areas in which we can share facilities, such as simulated

learning and the mock village. There are lots of areas in which those flexible and integrated facilities are shared.

This is an exemplar of how three public services can work together to achieve shared outcomes and realise good business benefits. It would be a real shame if we were to lose that impetus because the programme did not go ahead.

The Chairperson: I apologise for being late; I thank the Deputy Chairperson for chairing the meeting thus far. Hopefully, I will not go over any ground that has already been covered.

Mr McCartney, did you have a supplementary question to follow on?

Mr McCartney: It was just that Brendan used the phrase "gross incompetence" in relation to a £12 million contract. Is there any clawback?

Mr Smyth: That is something that we will look at. It is being examined at the moment. We have to be very clear as to how we would demonstrate that and establish the detrimental impact that it has had, as that would form part of that challenge.

Mr McCartney: I want to ask about independent verification. It was said that it was down to the Health Service's COPE.

Mr Smyth: We had an independent verification on the advice of the Health Service's COPE.

Mr McCartney: Is that outside the Department, or was that —

Mr Smyth: That was outside the Department. It was done by another independent firm of quantity surveyors.

Mr Wells: First, I apologise because three members of the Committee are dashing in and out of another event upstairs, and I am one of them; it is a bit like musical chairs.

I have two questions, and I suspect that you will know what one of them is about. First, Down District Council has been through the process for a major infrastructure project. It is now in the public domain, so I can say that our quantity surveyor said that the contract could not be done for less than £11 million.

The tenders that came in were savage; one of them was below £10 million. Contractors were bidding dramatically lower prices than those of five years ago simply to secure the work. We signed the contract on the Thursday and the bulldozers were in on the Monday. That shows you the atmosphere of the business environment that we are in. Therefore, I was absolutely dumbfounded when I heard that the five bids came in above the estimate, given that I thought that we were going to be embarrassed that they were so low and that we thought companies might not be able to sustain the contract for its entire duration.

If you are pooling costs — you will not be surprised to hear this — you perhaps could eliminate the stipulation of Kilkenny stone and Donegal quartz. There is a serious side to this. I know that I ramble on about it, but this is preventing Northern Ireland-based companies, which employ local taxpayers and ratepayers, from tendering for work. Northern Ireland taxpayers are paying for this contract. I am sure that other Northern Ireland contractors will get the work for other aspects of the project. If you had simply stipulated a suitable type of stone, you would have allowed those who provide stone in the Northern Ireland market, from places such as south Down, an opportunity to tender that they are being denied at the moment.

Perhaps I am glad, in a way, that there is an opportunity to revisit that really strange decision that the stone must come only from one quarry in one place and another quarry in another county of Ireland. That is just me being parochial, but the more important issue is this: how on earth, in the present market conditions, could five tenders come in above the recommended tender price? That strikes me as extraordinary.

Mr Smyth: I will answer that, Jim. I think that you are right; it is an extraordinary and highly exceptional circumstance, and it is something that we have never encountered before. It is a

reflection of the fact that the pre-tender estimate was grossly incorrect. It was not a reflection of the market, because the market has tendered competitively for the work against the tender packages issued to them. The simple fact is that the pre-tender estimate was grossly underestimated.

You can ask why that was, and there is a complex web of reasoning. It is not one single item; a whole range of items have built up to create that situation. However, with regard to having confidence moving forward, the contractors have to sign up to a guaranteed maximum price in this procurement methodology. They take the risk on quantities and on all issues, and they have to deliver that in the price that we agree at the end of the preferred bidder period. That should avoid the situation where you have a contractor underbidding. Since contractors were aware that that was the procurement methodology, they realised that they could not underbid and hope to claw it back somehow during the course of the contract. The contractors who bid for this bid at a price, and they are stuck with the price that we agree at the end of the preferred bidder period.

Mr Wells: What about the Kilkenny stone and the Donegal quartz?

Mr Smyth: I cannot comment on the —

Ms Warde-Hunter: I can, if that is helpful?

Mr Wells: I am glad that somebody can.

Ms Warde-Hunter: I do not wish to repeat the Minister of Justice's response to you —

Mr Wells: I was not happy with the Minister of Justice's response at all, neither was the stone industry in south Down.

Ms Warde-Hunter: Brendan might be able to substantiate the procurement. Of course, in setting it out and giving an absolute requirement, it was set out, and that is accepted. However, in all cases, contractors can provide local alternatives if they are cheaper, and that option is there in the procurement.

Mr Wells: What is the alternative to Kilkenny stone apart from Kilkenny?

Deputy Chief Constable Gillespie: Obviously, that is something that we will be working through in the bill of reductions, and we will have to reduce the costs of some of the finishes of the college without compromising the integrity and ethos of the programme.

Mr Wells: That is good news for somebody.

Deputy Chief Constable Gillespie: We will be working through that.

Mr Smyth: That matter was raised prior to the tender being issued. We made investigations through the quarrying federation to find out what stone was being quarried in Northern Ireland. Its information was that very limited stone was quarried for that type of function in Northern Ireland.

Mr Wells: I have been told by the industry that if you throw it open to all sorts of stones, you will get plenty of tenders from Northern Ireland companies.

Mr Smyth: If anyone wants to make representations about that, Jim, we would be happy to take it. That was the feedback that we got from the quarrying federation.

The Chairperson: In the pruning back to try to get the £30 million overspend under control, does that require a new business case?

Deputy Chief Constable Gillespie: We are operating this on a parallel track, as it were, and having all the discussions that need to be had between the Department of Health, Social Services and Public Safety, the Department of Justice and, ultimately, DFP as to what a revised business case might look like and what other options they might like to see considered in that revised business case. However, we are not at the point yet where we know for sure with clarity that we have exceeded the 10% cost limit on the current business case. We are working very hard on a twin-track approach and

starting to prepare for the possibility that we will need a revised business case, and we are also working very hard to narrow the affordability gap to as close to what we can afford as possible.

The Chairperson: What assessment has been made in the pruning back attempt, having identified a preferred bidder, that you are not fundamentally changing the project and could be liable to a legal challenge?

Deputy Chief Constable Gillespie: Brendan might want to mention the cost reduction part.

Mr Smyth: You are absolutely right with regard to the avoidance of a legal challenge. We have to be extremely careful that we do not introduce something different. With regard to the pruning back, all that we can do is use rates that are established in the tender process to make those decisions. In effect, that means that we can reduce the quantities of items. We can take something out of a scheme — a length of rod or a length of perimeter fence, or something like that — but we cannot substitute it with something unless that is in the tender document and unless we have clear rates for that item.

We have to be clear that there is absolutely no negotiation about the process. It would simply be a question of extracting elements from the tender rates and substituting only with elements that are already included in that tender. That is so that someone cannot claim that, had they known that that would have been the case, they could, potentially, have been the preferred bidder on this project. We are absolutely clear about that. There is no negotiation on this. It is simply a question of extracting elements that are in their tendered rate or substituting them with rates that are currently in that tendered bid. When we do that exercise with the bill of reductions, we will examine all of the tenders to see whether that would have had the impact of making any material difference to the ranking order of those tenders.

Mr Lynch: Go raibh maith agat. Who came up with the pre-tendering estimate, Brendan?

Mr Smyth: The initial pre-tender estimate? That was the responsibility of the cost consultants in the design team. They will have reported that on a monthly or six-weekly basis for the past 18 months, and, for the past 18 months, that was in and around the £101 million level. On the basis of the market intelligence that happened during the tender period, they did a new pre-tender estimate, and, at that point, they increased that figure to £137 million. That was probably because they were getting better market intelligence on the actual rates.

Mr Lynch: If someone was going to build even a private house, you would get someone with a reputation and a history, and you would source that. Was that not done on the history of the design team? Obviously, there were severe weaknesses in the senior management of that design team.

Mr Smyth: This design team came as the result of a European-wide competition. In fact, the principals in this design team are based in America. They came with the highest degree of expertise in designing multi-force training facilities such as this, and they had a record across the world of designing this type of facility. At that stage, part of the assessment was their competence do to that. Unfortunately, in that team, some individuals have let us down.

Deputy Chief Constable Gillespie: By way of assurance, the replacement individuals who the design team have put in at a very senior level have an exemplary record of delivering very complex international capital building programmes. As I said, I am much more assured that they will be able to deliver for us on this programme.

Mr Lynch: Was the decision to remain with the same design team based on the fact that the cost of looking for another design team would be huge?

Mr Smyth: It was not only based on cost. Cost was an element, but, probably more importantly, it was based on a risk assessment of the options. It was deemed that the most appropriate way forward was to remain with that design team but with that design team significantly altered and significantly strengthened. As the Deputy Chief Constable said at the meeting earlier this month, it is fair to say that some of the replacements that they have put forward are among the most senior and most respected architects in the UK. They have a track record of delivering huge projects, so that has given us a high degree of assurance that, in truth, the project team did not have. If you had asked us this six

weeks ago, we would have said that we still had concerns about how the project team was rectifying what we saw as weaknesses in the team.

Mr Lynch: Why is the director of HR in the PSNI involved in this project? Is this normal practice?

Deputy Chief Constable Gillespie: Training falls within the human resources department's responsibility, and, therefore, he has an integral part to play in this project.

The Chairperson: How much of the £30 million do you anticipate being pruned back? How much can you reduce that by?

Mr Smyth: There are probably a range of options on how much in can be pruned back by. There is an option that it can be pruned back with probably little loss of functionality at all —

The Chairperson: Explain that one — "loss of functionality". Put that into pounds, shillings and pence.

Mr Smyth: For example, in the scheme as it is designed at present, there are extensive road networks through the site. Many of those roads have been designed to motorway standard, which is what the designers understood the requirement to be. In truth, however, there will not be the volume of traffic on them that needs motorway standard, so we can reduce that to a class-A road standard, of which there are some in the scheme. In some cases we can reduce it further, because there are roads, perhaps going to a particular village in the site that will only be traversed occasionally. There are areas like that where we can reduce the standard without reducing the functionality. It will still provide all the service training requirements, but at a slightly different —

The Chairperson: Give me a figure. What will that save?

Deputy Chief Constable Gillespie: Perhaps I could clarify what Brendan has said. He is quite right that some of the roads in the design are to motorway standard; that is because police officers and fire and rescue need to drill on motorway-style roads. It is not that we are planning to build all roads in the site to motorway standard, but we do need a stretch of road that resembles a motorway so that we can practice real-life training drills. What we have agreed as part of the potential reduction of costs is that that does not need to be of motorway standard, because it will not have a volume of 30,000 or 40,000 vehicles every day, as many of our motorways in Northern Ireland do.

The Chairperson: With respect, to try to get to the actual question, quantify for me —

Deputy Chief Constable Gillespie: Sorry, I just wanted to clarify —

The Chairperson: I appreciate that, but —

Deputy Chief Constable Gillespie: What we are looking at, potentially, is a range, but it will be about £14 million at this stage. I stress that that is the first cut. That is the three client organisations coming together and agreeing what they think would be feasible reductions. That has to be run past the design team, as it may say that it is not feasible because it would compromise the integrity of the fabric of the building or whatever. However, at first cut, I am confident that we can close the affordability gap considerably.

The Chairperson: That would still leave, at first cut, £16 million overspend.

Deputy Chief Constable Gillespie: Potentially, yes.

The Chairperson: Where will we find the money for that?

Deputy Chief Constable Gillespie: If we moved to the preferred bidder stage, we would work through a further reduction schedule with them.

The Chairperson: Therefore the Department of Justice will need to find another x amount of millions, or will it be taken from the police budget? Is the Department of Health being asked to make a further contribution?

Deputy Chief Constable Gillespie: Those decisions have yet to be made. We will enter into those discussions when we know exactly what the capital cost of the programme will be.

Mr McCartney: On a broader point, this is one of the biggest capital projects to be undertaken. Are you content that the social clauses will reflect the magnitude of the project?

Mr Smyth: Absolutely. All the social clauses that are required — through the Central Procurement Directorate, we are introducing all those issues about apprenticeships, training and special interest groups — are written into the contract. Moreover, sustainability criteria were part of the tender assessment. There were three pillars of sustainability, of which the social element was one. The contractors were asked to put forward their proposals on that. That was in addition to the base requirements. We anticipate that that agenda will be fully met, and, in fact, met in an enhanced fashion.

Mr Dickson: You referred to the fact that the design team error was being covered in the sense that there was no additional cost to you for their delivery. Does it not go beyond not charging you any more and covering the cost? They made a mistake. What recompense do you get for that? They did not provide the professional standard to which they signed up. Therefore, in addition to saying that they are not going to charge you any more — thank you very much; one would certainly not expect them to — what compensation are you seeking? What professional indemnity are you looking for? Surely, people are not walking away from this scot-free, are they?

Deputy Chief Constable Gillespie: No, indeed, and that is a matter of discussion with the legal advisers in the Strategic Investment Board as to what redress we have with the design team.

Mr Dickson: Would that redress extend to the £30 million?

Deputy Chief Constable Gillespie: I cannot answer that question at this point.

Mr Dickson: Some would say that it should.

Mr Elliott: Apologies, folks. Like Mr Wells, I had to be at another event. I apologise if I am about to ask something that you have already answered. If so, that is fine; I will pick it up in the Hansard report.

You did, Brendan, use pretty strong terms, in describing what happened as professional incompetence. Mr McCartney asked about clawback, as did Mr Dickson. Will you talk me through the timescale and when you found out, at each stage, where this was beginning to go wrong?

Mr Smyth: We had reassurance throughout the project, over the 18 months that preceded the issue of the tender documents in September. At that point, we had a pre-tender estimate somewhere in the order of £103 million. All the pre-tender estimates until then had varied between £100 million and £103 million. Things were coming in and out, and costs and expectations were being managed, to align with that. The documents went out to the five bidding consortia. At the end of the first or the start of the second week in December, we started to get feedback from the market. Contractors were ringing to say: "We think that there is a problem." It was really only as they pulled the various strands together that they started to get —

Mr Elliott: Who was telling you that, Brendan?

Mr Smyth: The contractors who were bidding on this. It was market intelligence that started to ring the alarm bells.

When we heard that from one, then two, then three and four contractors, we quickly realised that there was a problem. At times, contractors can overstress issues, but this was from such a broad and unanimous sector of people that we felt there was a problem. We pulled in the design team again and told them that we were getting real intelligence that the figure that they had come up with was not achievable by the market. We told them that they would have to look at what the market rates were coming back with on all the elements and readjust the pre-tender estimate. They did that. On, I think, about 17 December, they produced a revised pre-tender estimate of £137 million. On 21 December, the tenders were returned by the bidders. The £137 million was probably reasonably reflected, given

the range of tenders around it. There is one tender below that figure, two above it, and another significantly above it.

Mr Elliott: Did a detailed explanation come with the £137 million revised figure?

Mr Smyth: I have a detailed report that explains the variance between the £103 million figure and the £137 million figure. It goes into some detail to explain, in each area —

Mr Elliott: Is that from the project team?

Mr Smyth: From the design team. It has produced a report highlighting where the variance arose, so we have a good handle now on those differences. However, that does not excuse the differences having happened in the first place.

Mr Elliott: You still insist that those variances were because of professional incompetence.

Mr Smyth: We expect a design team to work in an holistic fashion. We do not expect the cost consultants to take information and price it without challenging, asking questions or working as an integrated team. It seems to us that what has happened here is that all the information on the enhancements that the various architects and civil and structural engineers were doing — some of which related to security issues and some of which related to other more technical issues — was not captured by the cost consultants. Some of the fault lies with the cost consultants; some with other members of the design team. Ultimately, the lead of the design team is responsible for how it functions as a whole. Our emphasis has been to go back to the lead of the design team and say: "You have failed us; what are you going to do to address the situation?" As the Deputy Chief Constable said, it is only recently that we have had confidence that that has been thoroughly and comprehensively addressed.

Mr Elliott: I assume that you had that confidence in the previous team up until December.

Deputy Chief Constable Gillespie: There were communication issues with the design team even prior to this issue. However, those were not of such material damage to the programme that we had any concerns about the team's competence. I think that you would be surprised if there were not some relationship and communication issues in a programme of this complexity. There are a lot of people to manage and bring together to deliver against the programme. Therefore although we had written on several occasions about issues with the design team, none of those was fatal until this point.

Mr Elliott: I accept, as I assume most of us would, that you will get difficulties in a job or project of this size.

Deputy Chief Constable Gillespie: Of course.

Mr Elliott: It will be littered with difficulties. However, you still had confidence in that team. Even though there were minor problems, there was significant confidence in that team right up until December. You are saying that a new team has been put in place with the same contractor, project team or management and that you have confidence in it.

Mr Smyth: Tom, I do not know whether you were here when this was discussed, but some elements of the team are being replaced, including whole quantity surveying element, the design lead, and the design lead co-ordination project management role. Significant changes are being made to the team, and the project board now has confidence in it. Much of this comes down to individuals: you can have the greatest design company in the world, but if you do not get the best people in it, you will not always get the best service. In the past week, the team has demonstrated clearly that it has taken this seriously. The lead architect is a former head of the Royal Institute of British Architects.

Deputy Chief Constable Gillespie: The change at senior management level was made by the design team itself. We did not ask for that change; the design team saw fit to make it itself. As Brendan said, it has changed the cost consultants. It is also introducing a contract management resource and a local resource. The previous senior project lead was based in Chicago, which presented challenges around communication, time differences and accessibility. However, we now have a resource that will

be based much more locally and will be much more accessible to us. As I said, the senior project lead has been replaced. All of that followed on foot of a letter that I wrote to the chief executive of the design team, and a conference call followed soon after that letter. I was assured absolutely that the chief executive was across the gravity of the situation and was moving quickly to address our concerns.

Mr Elliott: I need to put on record my concern that the project team continued for months with the confidence of the project board and without any hint of serious difficulty until the contractors who were supposed to be bidding for the project came to you. I am concerned about how it has been managed and about how it has been decided that there is confidence in the new team. I am not in any position to make any judgement on that whatsoever; however, I need to put that concern on record.

I have a final query. Brendan, you gave the good example of downgrading the plan for a motorway to an A1 road as one way of how some of the cost reduction can be carried out. However, in essence, if you have to make cost reductions on that scale, you are not getting the project that you had planned.

Deputy Chief Constable Gillespie: I will address that point if I may. You expressed concern about the design team and about our working with it. As I said — perhaps before you came in — I, as the senior responsible officer for the programme, expressed exactly the same concern. How could we have confidence in a design team that had made such fundamental errors in the programme? That question was addressed to the senior representative from the design team who appeared at the programme board at our request in March. We had previously had a senior representative appear in February. That senior representative has since been replaced. Given the change in personnel and the gravity with which they are treating the situation, I am much more assured. However, we considered all options, including ditching the current design team. That option was seriously considered — and more seriously considered, may I say, in the past few weeks when we were not getting the assurance that our concerns were being taken seriously. That has been addressed now through the presentation to the programme board that Jack Pringle, who was a member of the design team, has made. As I understand it, he is a much respected individual. Brendan has given the Committee something of a flavour of his track record.

Your second question was about not delivering the functionality or the college that we hoped to deliver. Before you came in, I talked about the three phases of the bill of reductions. I mentioned earlier that some costs can be taken out with very little pain. In fact, some costs are included in the cost estimates that should not have been included in the first instance. I quoted the example of furniture, which is included in the cost estimates. However, that is already included in another part of the budget. Therefore parts of the costs can be removed with no pain whatsoever.

We are looking at bringing together, perhaps, other areas of the programme, such as simulated learning, where the Fire and Rescue Service and the police would have their own simulated learning environments; now, however, we think that, given the pressures of costs, they will have to share those facilities. That is both a positive and a negative because although it brings the two services together in that simulated learning environment, it means that there is less flexibility in the resource. However, it does not compromise the functionality of the college.

We will be very careful as we work through the bill of reductions not to compromise the partnership ethos, the business benefits that the programme was designed to deliver, and the functionality of the programme, because if we get to that point, there would be a question over whether it is a viable programme at all.

Mr Elliott: I have no difficulty if genuine moves are made for cost reduction. That is fine. My point is that you are not getting the full college that you were planning if significant reductions are made; for example, if you have only one simulator process as opposed to two or if you reduce a road structure from a motorway to an A class road.

Finally, any design team that included furniture twice for the same project, obviously, there have been significant gaps. Is that what you are telling me?

Deputy Chief Constable Gillespie: No. It did not have furniture in it twice; it had included furniture in its cost estimates. Furniture is actually already catered for in another part of the budget.

Mr Elliott: OK. That was those who carried out the estimates, the contractors?

Deputy Chief Constable Gillespie: Yes.

Mr Elliott: OK. That is fine.

The Chairperson: Finally, where does that now leave the overall time scale for delivering the project?

Deputy Chief Constable Gillespie: We are working hard with the Departments to deliver on whether we need a revised business case and to see exactly what the structure of a business case would look like. We have set ourselves challenging targets to get the business case submitted through the two sponsor Departments — the Department of Health and the Department of Justice — and then to the Department of Finance and Personnel (DFP) should that be required. Optimistically, it could set the programme back a number of months; pessimistically, it could push significant capital spend into the next comprehensive spending review (CSR) period. There is already an amount of capital spend that would be pushed into the next CSR period. The more that delays, the more the profile of the spend goes into the next CSR period. Ministers and permanent secretaries are aware of that. We will be working very hard to bring the programme back on track. I anticipate that the delay is now a matter of months.

Ms Warde-Hunter: Minister Ford has welcomed the input and support of Minister Wilson on the fact that DFP stands ready to move swiftly should the revised business case come forward again. It has been important to have that imprimatur from Minister Wilson.

The Chairperson: Deputy Chief Constable, Brendan and Louise, thank you very much.