



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Desertcreat Training College: Progress
Report

20 June 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 Patsy McGlone
Mr Jim Wells

Witnesses:

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

The Chairperson: I welcome to the meeting Deputy Chief Constable Judith Gillespie, chair of the Desertcreat programme board, Ms Louise Warde-Hunter, deputy director from the policing policy strategy division in the Department of Justice (DOJ), and Dr Bernie Stuart, who is the director of the investment directorate in the Department of Health, Social Services and Public Safety (DHSSPS). The session will be recorded by Hansard and published in due course. I invite Judith to give us a briefing, and members will then ask questions. I implore members to try to keep their questions succinct without necessarily making statements or preambles.

Mr McCartney: Perish the thought.

The Chairperson: Likewise for those answering, I ask that they keep their answers succinct. Hopefully, we will be able to ascertain information that the Committee will find helpful. Judith, I will hand over to you.

Deputy Chief Constable Judith Gillespie (Police Service of Northern Ireland): Thank you very much, Chairman. Good afternoon everyone. We welcome the opportunity to brief the Committee again on developments on the Northern Ireland Community Safety College, particularly after my meeting with you on 7 March this year. As you would expect, I continue to take my responsibilities as senior responsible owner (SRO) for the programme and for the governance and stewardship of public money very seriously. In that regard, I am pleased to say that the programme has made very significant progress since March. The business case appraisal is nearing completion, and we are awaiting approval from both Ministers to proceed to the preferred bidder stage of the procurement process. I think that the Committee will agree that that will be a very significant and welcome

milestone in the programme. However, I will highlight that we remain at a very critical stage in the procurement process. Although I am very happy to discuss the process itself, it is not possible for me or my colleagues to discuss the individual companies that are involved in that process. No doubt, the Committee will wish to explore the process in more detail, including the due diligence checks, to assure itself that the bidders are financially suitable to carry out the project.

Forgive me, Chair, I should have introduced my colleagues Louise Warde-Hunter and Bernie Stuart. I know that you mentioned their names at the beginning, but I welcome them and thank them for their assistance to me in the programme.

It may be helpful to refresh the Committee's memory on the programme cost position. As you will be aware, the tenders for the college programme were issued in September 2012, and by December 2012, we became aware that all five consortia would be submitting a tendered cost that was significantly greater than that forecast through the design process and around 30% above the available budget. You are also aware that, in February 2013, a senior representative from the design team accepted responsibility for the mistakes in the cost estimates that repeatedly — in fact, on eight separate occasions — assured the programme board that the design was affordable. That individual has now left the company, and a new senior management team has been appointed with supporting staff. The design team has also replaced its cost consultants. All that has given the programme board considerable assurance that the team is capable of delivering the programme. It is also pleasing to note that the project governance structures that we have in place allowed that problem to be identified, addressed and rectified in such a short time, ensuring that this key objective in the Executive's Programme for Government (PFG) remains on course and will suffer minimal delay.

Since I met the Committee previously, the programme has focused on addressing three key issues that I will cover very briefly: the governance assurance; the bill of reductions; and the business case addendum. I will start with governance assurance. On governance and management of the programme, I advise the Committee that we have undergone a number of detailed independent reviews. They have taken the form of a gateway health check of the procurement project and a programme governance review by the PSNI's internal audit. Those have given me, as SRO, and the two departmental accounting officers the assurance that the governance and management of the college programme and the procurement project in particular are sound and that they follow best practice guidelines. I have also invited further critical friend challenge from the Strategic Investment Board (SIB) on to the programme board and the confidence recovery group. Furthermore, we have received detailed legal advice from senior counsel that the procurement process is sound and that the appointment of preferred bidder is the appropriate route to progress down. I am sure that the Committee may wish to return to that.

It is important to state that the bill of reductions was allowed for in the procurement process, which has been reviewed and endorsed by senior counsel. The three services and the programme team have worked very hard — incredibly hard — to identify almost £20 million of savings that we believe will not compromise the ethos or the functionality of the college. I will give you a brief explanation of how we have achieved those savings. They have been identified through rationalisation, for example, the amalgamation of the police and fire training warehouse; relocation, for example, drawing in the boundaries of the training village to reduce pipe runs and roadways; revision of internal and external finishes; and some reductions, for example, tree planting. So, there are four Rs. This has been a complex and thorough process, and I assure the Committee that it has closely involved all three services. They have been absolutely and totally committed and consulted throughout.

I then commissioned a review of the bill of reductions by a world-renowned architect who has been familiar with the programme for some time. He has given the programme board and me, as SRO, specific assurance that the proposed bill of reductions will not degrade the design below the ambitions of the programme and that a reasonable accommodation has been reached between fitness for purpose and value for money. Indeed, a number of the changes are of positive benefit for functionality.

I am pleased to report that the business case addendum is at a very advanced stage. It is my hope that any outstanding queries from the Department of Justice and the Department of Health, Social Services and Public Safety will be addressed in the forthcoming days. That will allow a submission to go to Ministers for consideration. As a programme board, we are satisfied that the integrated college continues to provide value for money and that it will realise the most benefits. The programme team has been in constant liaison with senior departmental officials from each of the Departments to ensure that the addendum can proceed with minimal delay. Stakeholder confidence and engagement, including with our own staff associations and respective boards, have been a golden thread running

through all this recent work by the programme board and team. Therefore, we really welcome the opportunity to explore, through your questions, all these issues in greater depth, as well as any other concerns that the Committee may have. Thank you.

The Chairperson: Thank you very much. I have a number of questions to ask, and then I will bring other members in. I do not want to rehearse what we covered at the previous Committee meeting on this, but if I can just go back to the start, there is an issue about how you became first aware of this only in, I think, September 2012, when the tenders came in. That was the first time that the Department and the team recognised that they were £30 million short. I still cannot grasp how, between the design process and the tenders coming in, no one flagged up that they were way off the mark and that they had a £30 million shortfall.

Deputy Chief Constable Gillespie: This first emerged really in December 2012. You are quite right that the tenders were issued in September 2012, and that was on the foot of eight separate assurances on different occasions by the design team that we were within the affordability envelope. Before we went out to tender, the advice from the health estates' centre of procurement expertise (COPE), which is our procurement adviser, was that we should have a further check done on that. That check was done by another company by a dip sampling of all the costs of certain items in the procurement contract. We were assured that that was still within 2% to 4% of our budget. The independent check said that we were probably slightly underestimating the cost, but that was to the extent of only 2% to 4%. So, we were fairly confident that we had accurate estimates of the cost given by the design team and the independent review, which was a dip sample.

We went to tender in September 2012, and the intelligence started to come back then from the market that none of the companies was going to meet the works cost limit that we set, which was just over £100 million. So, information started to come back from the market that that was not going to be met. At that point, we commissioned a review of the design team's estimate cost. That came back in the middle of December to say that it had got its calculations badly wrong, and the college was now going to cost us £137 million as opposed to £103 million. That was when we really first realised that this was a critical error by the design team.

The Chairperson: Is that the design team that has so far been paid just over £6 million?

Deputy Chief Constable Gillespie: That is right.

The Chairperson: Has it been given that payment, even though on eight separate occasions, it gave assurances that have now been proven wrong? Given that, has it still been paid £6 million?

Deputy Chief Constable Gillespie: It had been paid that before this point.

The Chairperson: Has there been any attempt to recover that, given that it got it wrong?

Deputy Chief Constable Gillespie: We will take legal advice from the Strategic Investment Board (SIB) about whether there is any recourse for us to claim back any additional costs to the programme caused by the design team's mistakes. That is certainly an avenue that we will be pursuing. However, at this moment in time, we cannot prove any additional costs to the programme that this error incurred. As I said in my opening remarks, the design team has replaced quite a number of staff and brought in additional staff at its cost. That has not been at our cost.

The Chairperson: Is it still the same design team?

Deputy Chief Constable Gillespie: Yes, it is.

The Chairperson: Has there just been a rearranging of the deck chairs?

Deputy Chief Constable Gillespie: No. It has replaced its cost consultants, which was a very important point, because, after all, it was the cost consultants who made the significant errors. Those cost consultants have been totally replaced.

The Chairperson: I understand that, from the police point of view, there is not necessarily huge capital expenditure involved, but from the Department of Health's point of view, it is involved in

hundreds of millions of pounds worth of schemes. Did no one in the Department of Health think that this was completely wrong and that they were not going to be able to do this?

Dr Bernie Stuart (Department of Health, Social Services and Public Safety): Perhaps I can comment on that. The centre of procurement expertise's role is to advise on the procurement and to oversee the process. However, in this case, the design team and the cost consultants were responsible for providing the costs to the programme board. So, there was no role for the centre of procurement expertise in checking the costs at that point.

The Chairperson: Should it have had a role?

Dr Stuart: No, that is not part of the process. The system, albeit belatedly because of the two significant errors that were made, came out with the fact that the costs were wrong. At that point, advice was taken on how to move forward. So, it was not that the project moved ahead unknowingly; it just took that period between September and December for it to become known that there was such a significant problem.

The Chairperson: Explain this to me, then. The choice that was to be made was either to have Central Procurement Directorate (CPD) do this or to adopt the approach that was taken, which was for this design team to do it. Was that an option?

Dr Stuart: Yes, I suppose that it was an option, but under —

The Chairperson: So, might we never have had this scenario if Central Procurement Directorate had carried out the work?

Dr Stuart: No, sorry — I misunderstood your question. Central Procurement Directorate or the health estates could have provided the centre of procurement expertise. However, given that the health COPE, as Judith refers to it, is the normal procurement body for the Fire Service, it was chosen as the procurement body. It is always the private sector that does the work in the market at face-to-face point. The issue is managing the procurement process.

Deputy Chief Constable Gillespie: I would add, Chair, that you understandably refer to the point that the design team had been paid £6 million. It was paid that to do a job, to perform its function and to give us accurate cost estimates of the design. It did not do that, and you are quite right to point out that, in the fullness of time, we may have legal recourse over that. However, to ask another body on top of that to quality assure its costs etc, kind of undermines that we are paying the design team a substantial amount of public money to do its job.

The Chairperson: The main point that I am trying to establish is whether we might have prevented this from happening had we, at the outset of this process, not taken this design team route and instead gone through Central Procurement Directorate.

Dr Stuart: No. The Government have for many years moved away from directly doing design. The role of the centre of procurement expertise now is to oversee the procurement process rather than to do the design and the cost consultancy.

The Chairperson: At what point did it oversee this design?

Dr Stuart: It oversaw the process throughout and reported to the programme team. In effect, the centre of procurement expertise detected it at the point that Judith referred to, but it was not actually doing the costing itself. The costing was the role of the design team.

The Chairperson: OK. Judith, you mentioned a number of areas where this approximately £20 million has been found, such as for trees and reductions in the road runways. Can you detail exactly what has been compromised on? I think that you said that the expert said that there had been a reasonable compromise in functionality and value for money. What is the compromise? What has been lost?

Deputy Chief Constable Gillespie: Between 400 and 500 areas were found, Chair. I am sure that you do not want me to go through them all. The major big-ticket issues were on the rationalisation of,

for example, the police and fire training warehouse. Until we had to compile a bill of reductions, the Police Service and the Fire Service were to have separate training warehouses. We have had to bring those together to make savings, which you could say is absolutely in keeping with the ethos of integration and sharing the training facilities. That is good. However, it is also a challenge, in that the warehouse will be very highly utilised and we will have to manage the demand on it very carefully. Nevertheless, because of the partnership relationship that has been established through the college programme and with the Fire Service over many years, we are confident that that issue will not be insurmountable. However, we made a significant saving of what I believe was over £1 million in that area alone.

There are many other areas. I mentioned relocation, such as moving some buildings closer to the core practical training area, which means building fewer roadways and pipelines. As the architectural adviser that we asked to review this agreed, those are sensible measures that could be said to depict more accurately an urban policing fire and rescue or prison environment than having buildings that are more spaced out.

The Chairperson: If it is more accurate now, why were those items included in the first place? If we have been able to strip 400 to 500 items out of this, why were those 400 to 500 items in it?

Deputy Chief Constable Gillespie: I assure the Committee that this has been a really challenging exercise. When I say 400 to 500 items, I am talking about going right down to doorknobs and fixtures and fittings. This has been a very challenging exercise. We have reviewed a lot of the finishes to make them give more value for money. We also have to keep an eye to the longevity of the programme, because, after all, we hope that this college will serve many decades of policing, fire and rescue and Prison Service functions. So, we have to keep an eye to the longer term and not just use cheaper materials. Our adviser tells us that a reasonable compromise or accommodation has been made between giving value for money and fitness for purpose.

The Chairperson: That seems to imply, however, that when the initial concept for this was drawn up and the design was put in, someone was not looking for value for money. They were going for a gold-plated standard, and they just threw everything into the mix and now we have to find £20 million of a £30 million overspend.

Deputy Chief Constable Gillespie: Absolutely not. I am sure that it is an entirely legitimate question, and I understand why you are asking it. However, bear in mind that, as I said, we were given assurances by the design team that this was affordable. Each time we made a change in the programme that added additional cost, we made sure that cost was reduced elsewhere. So there was always an eye to value for money being given to the project. Therefore, every time that we increased the space of a classroom, changed the size of an accommodation facility or added something on to the practical training village, we were assured that a saving was made somewhere else. Each time we did that, we worked through that value engineering with the design team, and it assured us that we were still within the affordability envelope. That is why it is so disappointing, and indeed shocking to us, as a programme team, that we are so far over budget.

The Chairperson: I still cannot understand, though, how we have been able to strip out so many items but the core functionality of what we are trying to deliver is not compromised.

Deputy Chief Constable Gillespie: It has been an incredibly difficult exercise for the three services, and, yes, of course there are certain things that we have had to let go. However, that does not ultimately compromise the core ethos and functionality of the college.

The Chairperson: As part of the big plan when this was initially launched, will we still be able to do the international tourism training that you talked about?

Deputy Chief Constable Gillespie: Very much so. Bear in mind that this will be a unique training facility that combines the three services and that focuses very much on the practical training village. To our knowledge, there is no facility like this anywhere else in the world. So, we will still have that attraction for international colleagues to come and see. As I said to you in the previous hearing, we have already had very significant international interest in the college. So, I am confident that that will remain.

The Chairperson: By my calculation, we are still approximately £10 million short. Given the new business cases that need to be submitted, I take it that you will be seeking additional funding from the Department of Justice. Is the Department of Health part of that? How much extra is needed, and what is the proportional breakdown for who is being asked to pay for it?

Deputy Chief Constable Gillespie: In total, we are just around £18 million short. That is the total shortfall in the whole programme. It is not just the capital, it is ICT and the whole programme. So, obviously we will be in discussion with the Departments about how we are going to meet that shortfall.

The Chairperson: So, are you £10 million short in capital and £8 million short in other aspects?

Deputy Chief Constable Gillespie: That is roughly correct.

Dr Stuart: Sorry. If I could come in: it is all capital. You are talking about infrastructure. ICT is capital. So, the total figure that Judith quoted at the beginning of the meeting was the construction cost. The other costs are also classified as capital expenditure, but they are not the infrastructure costs.

The Chairperson: Does that mean that they are not associated with that infrastructure? OK, so it is £18 million. Who is being asked to pay what?

Deputy Chief Constable Gillespie: I just wanted to say that the £18 million is around 13% of the original budget.

At the moment, we are in discussion with the Departments about how that shortfall is to be met. So, at this point in time, we also have to think about the increase in optimism bias that we have been asked to find to make sure that, in case we run into some unforeseen issue during the construction phase, we will be able to cope. It has been agreed how that is to be shared out between the PSNI and the Department of Justice. The remaining shortfall is still a subject of discussion between Departments.

The Chairperson: If it follows the previous split, I think that the initial budget line was £103 million; you can remind me. Was the Health Department being asked to pay £35 million?

Deputy Chief Constable Gillespie: It was £135 million, Chairman: £90 million from the PSNI, £10 million from the Prison Service, and £30 million from the Health Department. The shortfall was met by the disposal of police estates at Garnerville and Steeple.

The Chairperson: Do you anticipate it following approximately the same initial percentage split?

Deputy Chief Constable Gillespie: That is a matter for discussion.

Dr Stuart: Probably not. It will depend on where the costs lie. The issue of where the costs come from will be completely revisited.

Mr McGlone: Given the week that is in it, with the G8 summit, maybe it is appropriate that I start off with Fermanagh. My question is initially directed to Dr Stuart. I hear mention of the involvement of CPD and health estates. There was also mention of a gateway review. Were CPD and health estates involved in the construction of the new hospital in Fermanagh? Has a gateway review been conducted into that whole process? I ask because I chair the all-party group on construction. I am sure that Mr Elliott will be able to share some experiences as well. There is a lot of talk in the industry about unpaid bills and the slowness of the payment of invoices in the hospital project, particularly among those who really hit the wall after the collapse of the Patton Group. Before we move on to the other stuff — this will contextualise it, if you bear with me, Chair — will you give me an indication of the involvement of CPD and health estates, and whether a gateway review has been conducted on that project?

Dr Stuart: The requirement to use a centre of procurement expertise means that you use one centre of procurement expertise. In the case of the South West Acute Hospital, that was health estates as opposed to CPD. CPD is the main hub for delivering gateway reviews. All gateway reviews have a link to CPD, although health estates is a sub-hub for delivering gateway reviews. In any major project, there is a requirement to undertake gateway reviews. The definition of those originally came from the

Office of Government Commerce. Typically, there would be gateway 1, 2, 3, 4 and 5 in any major project. Those are carried out in all major health projects. When that requirement was established, most projects that had not already had a gateway review were brought online at the appropriate point. For example, perhaps a project was a certain distance along, and it would begin at gateway 3. All projects now undergo what is called a risk potential assessment, which is an analysis to see whether they need a full gateway review or a peer review. That would have been the case in Enniskillen.

Mr McGlone: Has that been conducted?

Dr Stuart: They would have been conducted. The last gateway review effectively relates to post-project evaluation, which is typically undertaken when the project has been in place for a year.

There have been a number of queries through Minister Poots about non-payment of bills in various projects. Those have all been investigated. Particularly in relation to the South West Acute Hospital, all queries have been answered. There have been a number of Assembly questions, including, I think, some from you, Mr McGlone. Those matters have been investigated with the main contractor on any sites that we have been asked about. Sometimes, there have been obstacles and certain reasons for non-payment, such as non-delivery. However, we have had assurances that all appropriate bills have been paid and that any that have not would have been followed up at the time. If you have any specifics, I suggest that you write —

Mr McGlone: Maybe I should explain to you why I ask. I am not getting into specifics, but it is already in the public domain that a contractor that may have been associated with the hospital scheme may be associated with this project. The major scale of debt that that company is in is already in the public domain. In 2012, the debt of one company was over €7 billion. The consortium had losses in 2012 of €1 billion —

Dr Stuart: If I could interrupt you, we have not appointed a preferred bidder. We cannot really discuss an individual company. Perhaps I could address the level of checks that will be and have been undertaken —

The Chairperson: Sorry; I will just stop you there. Patsy McGlone was in the process of raising a question, so I will let him finish, and then I will bring you in again.

Mr McGlone: It is important that this is put on the record, Chair. Thank you for that.

Between January and March 2013, that company incurred losses of €140 million. The point is that I have gone through situations with constituents that I simply do not want to go through again. People's firms went to the wall and their livelihoods and homes were put at risk because major contractors, such as Patton, which, I think, was part of this consortium at the start, used small people and small businesses to prop up their business and subsidise their firms.

I passionately want to see Desertcreat go ahead, but I certainly do not want to see it going ahead if the appointment of one of the bidders leads to a ripple effect throughout the whole community. In fact, I will just mark your card on that. Many of the suppliers and subbies in the area, some of whom have already been nipped as a consequence of what happened with Patton, are looking at this. They have heard the name mentioned, seen the publicity that is already out there and said, "We would not touch it." That money needs to be firmly earmarked by you as public money. It is for a project that, as I say, I passionately want to see go ahead, but I do not want to see it going belly up halfway through and taking half the country with it.

Dr Stuart: I appreciate your question. Again, I cannot talk about an individual company. In the case of the South West Acute Hospital, which is a specific case that you referred to, those questions have been answered, but if there are further questions to be answered about that project, I suggest that you take it offline and write to the Minister.

On the checks that will happen and have happened so far in this project, I agree with you entirely: it is extremely important that no company is allowed to bring anybody else down. At the point of issuing the tender documentation, pre-qualification questionnaire (PQQ) checks were carried out on the economic operators that were invited to tender. That will be redone prior to appointment at the preferred bidder stage, and then redone prior to contractual commitment.

The Constructionline check is the UK Government-wide check for the viability of a company. It carries out checks on a company's asset base, financial viability, latest accounts, and so on, and it is used right across the public sector. As you know, because of the state of the economy, those factors can vary from day to day, so the check will be done at the point of appointing the preferred bidder, and if it turns out that there is any question about it, that will be investigated. I should say that some rumours about companies — I am not talking about any company in particular — can become a self-fulfilling prophecy. A company could suffer as a result of rumours that it is in difficulties.

It is important that there is the correct check at the correct time, but the centre of procurement expertise can check that more frequently should it be necessary. For example, if there is a concern at a particular point in time, Constructionline can do a check. I agree entirely that, when a project involves the commitment of public money, it is really important that checks are done.

Mr McGlone: Thank you for that. You will appreciate that I am dealing with facts that are in the public domain about one of the firms that might be in the consortium. By way of interest, you mentioned the checks done using the PQQ. When the consortium was FGP, did you do a check on the "P" part of that name?

Dr Stuart: Yes. Again, these things can happen at the last minute. When Patton, which you mentioned earlier, went down, it happened over a matter of days. These things do happen. There were rumours in the system before that, but you will recognise that you cannot act on rumour; you have to have a factual base for making an important decision such as that. You would not want to be disqualified from bidding for a contract without there being a proper, rigorous analysis, and Constructionline is the method for doing that. It gets its information on listed UK companies from Experian every day except Sundays. That is the chosen way of doing it. None of it is foolproof. Looking at it one way, if you do the check beforehand and find that somebody is not viable any longer, you rule them out. If you hear rumours, and then those rumours spread, it could be that they later go down. However, if they are appointed and later go down, there is a process. You will be aware, for example, of Omagh fire station —

Mr McGlone: I am well aware of the problems there. I have written to the Minister about that, too, where subbies have taken a hit.

Dr Stuart: That is because of the economic situation. There is a method and a system in place for putting things right. The construction industry is suffering very badly from the recession, as you are very well aware from your position. It is important that we take a very fair view at a particular point in time and, perhaps, carry out those checks more regularly. For example, the television programme that was on the other night is not a sufficient basis on which to rule somebody out. It has to be done through due process. We are not at the preferred bidder stage yet. When we get to it, that check will be done, and it will be rigorous.

The Chairperson: You have identified a preferred bidder; you just have not appointed them.

Dr Stuart: That is correct. That is why we cannot actually discuss the detail. That cannot be done until the business case is finalised and the Ministers have agreed to move forward.

Mr McGlone: I would be delighted to hear what the solutions are for sorting things out, particularly with regard to the fire station in Omagh, because a constituent who contacted me is still owed around £100,000. I have written to the Minister, and there is nothing that he can do about it. That is by the by. That is just the scale of certain things that we are dealing with. Chair, thank you very much for your forbearance.

The Chairperson: Has anybody else raised concerns about the bidders within the Department, from official to ministerial level?

Dr Stuart: In this particular instance?

The Chairperson: Yes.

Dr Stuart: No. The process is as I have outlined. For example, Mr McGlone has submitted written questions about the South West Acute Hospital. That was investigated at the time. If an individual question is asked, it is investigated at the time. The Constructionline check was done on all the

economic operators who were invited to tender at the time of the PQQ. That will be done again at the preferred bidder stage. There is no reason to do the check at this point since we are not actually engaging with the economic operators at this stage.

Deputy Chief Constable Gillespie: A further check is done before entering into our contract.

Mr Wells: Ms Gillespie, do you ever wake up in the morning and wish that you had studied architecture?

Deputy Chief Constable Gillespie: No.

Mr Wells: I think that, if you read what you have just paid out to the architect in this situation, you would, like many of us, wish that you had. Even if they had got costs down to the last penny, in the present difficult economic circumstances how on earth could we ever have justified paying £6.192 million to anybody for the project? How did that happen?

Dr Stuart: It is a standard percentage. There is a range of percentage. That, actually, is roughly the correct percentage for a project of that scale.

Mr Wells: Are you telling me that they spent £6.192 million worth of time, effort and expense in dealing with this project?

Dr Stuart: If you look at any major project, that is actually the percentage that you will find.

Mr Wells: The fact that all of these guys wear masks does not reassure me. The fact is that, in the present economic circumstances, there can be no justification for paying £6.2 million to anyone for a project of that size, even should they have got it down to the last cent. Was there any competitive tendering?

Dr Stuart: Yes.

Deputy Chief Constable Gillespie: Absolutely. The independent design team was appointed as a result of an open procurement process. It won that process fair and square. As Bernie has said, the rates of payment for that particular design team are entirely in keeping with what you would expect for a project of this scale and nature. Bear in mind what I said earlier: it is a unique design. There is nothing like it anywhere in the world. They were breaking new ground here. Yes; they got it wrong. They have acknowledged that they got it badly wrong.

Mr Wells: Was that ridiculous price based on an estimate that you gave them or on what the actual cost came out as? You said that it was a percentage. What was it a percentage of?

Deputy Chief Constable Gillespie: It is a percentage of the total funding that was available for the programme.

Mr Wells: So they got it on what you told them that they should assess it at, rather than what they worked it out to be.

Deputy Chief Constable Gillespie: I am not sure what you mean by that.

Mr Wells: You said that it was a fixed percentage. Does that percentage — the actual bill — move according to what the actual cost of the project entails?

Dr Stuart: It is not a fixed percentage. There is a percentage range wherein you would expect the consultancy to be. However, as Judith said, it is a competitive process that is run by tender, so you get an actual cost. However, broadly, it is within the percentage range that you would expect for a project of its size.

Mr Wells: It is not very competitive if that is what the bill comes out at. In the present market conditions, I am sure that there is better value to be had out there. We have already paid £6.2 million, which, to my mind, is a colossal amount of money — it is the price of a new rural primary school in south Down. That money is going into the pocket of one company. No one can tell me that it spent £6

million worth of time and effort; it simply could not have, because it got it totally wrong. We have already paid a king's ransom; is there any more money that is owed to the company?

Deputy Chief Constable Gillespie: There is a remaining outstanding payment, and we have been working very closely with the Strategic Investment Board on how we are going to manage that. A further payment is due, and that will not be handed over until the programme is completed.

Mr Wells: Dare I ask — I am sitting down — how much it is owed?

Deputy Chief Constable Gillespie: I am not sure whether I have that figure with me, but I can certainly come back to you with it.

Mr Wells: Is it millions or is it hundreds of thousands?

Deputy Chief Constable Gillespie: It will still be millions, but the substantial payment has been made. The greater part of what is owed has been paid. If I am right — forgive me, but I am speaking from recollection — I think that there is still about £2.5 million left to be paid.

Mr Wells: In other words, it is going to get about £8.5 million. That is the price of a very good primary school in south Down. It is getting £8.5 million simply for designing that campus?

Deputy Chief Constable Gillespie: As I said, it won the contract through a competitive tender process. A substantial number of world-renowned companies bid in that process, and that company won. It subcontracted the cost consultancy to a separate cost company, and that cost company has now been replaced. That was a critical element of our assurance that the company was fit for purpose, going forward.

Mr Wells: Can we have a categorical assurance that not a single penny of that £2.5 million will be paid to that company?

Deputy Chief Constable Gillespie: That would have to be the subject of legal advice from the Strategic Investment Board. Bear in mind that we have to prove that there has been additional costs incurred through its mistakes in the programme. That needs to be backed with legal advice.

Mr Wells: In the real world, a private company would say, "You botched it completely. You have got £6.5 million, and you have done jolly well out of it. You can scream to the high heavens, but you are not getting a cent more because you got it wrong." I think that £6.5 million for a botched job is pretty good value from its point of view.

Dr Stuart: It is a contractual commitment, and we must take legal advice before breaking such a commitment.

Mr Wells: Even when a firm makes such a fundamental error?

Deputy Chief Constable Gillespie: It made a fundamental error on the cost. There is nothing wrong with the design, although we have had to revisit the design to make the bill of reductions that I referred to earlier. It was the cost consultancy part of the design team's work that was fundamentally flawed.

Mr Wells: In the real world — the police, the Department of Justice, and, unfortunately, even the Department of Health, have to live in the real world — a private individual would go out to competitive tender, receive a quote of £8 million and go back and say, "Catch yourself on. You'll do it for £5 million." Most companies in the present circumstances of the real world would have jumped at that. You got a quote for £8.5 million and said, "Oh, that is fine." Nobody stepped back and asked, "Is £8.5 million good value to the public purse for this project?" It cannot be. It is a colossal amount of money, and it is no good basing it on a percentage of the contract. It should be based on the actual work that they do.

Deputy Chief Constable Gillespie: It was a competitive tendering process. It was procured through an open competition, and that company won the competition.

Mr Wells: And nobody went back and tried to shave a few million pounds off it?

Deputy Chief Constable Gillespie: At every stage in the process, we have been trying to effect savings.

Mr Wells: Did no one go back and contest that colossal sum for architects' fees?

Deputy Chief Constable Gillespie: At every stage in the process, we tried to make savings.

Mr Wells: But did anybody go back and ask them to cut their fees?

Dr Stuart: That is not possible as part of an EU procurement process. Once you have agreed the process and the tendering exercise is complete, you cannot go back to an individual and ask them to cut their price.

Mr Wells: What would the private sector do? It happens all the time. You put in a bid for a project, you win the bid, and they come back and say, "That is ridiculous. Knock 20% off it." That is what happens in the real world in the present economic situation, and that was not done in this case.

Dr Stuart: You have to comply with European Union rules when spending public money. Those rules require you to follow a set process for procuring the most economic tender. Once you have that, you cannot then renegotiate with an individual —

Mr Wells: You can, but you do not. Nobody thought of doing it. The very least you should do is say: "You've got your £6 million. I'm not paying you a penny more. If you want more, you can take us to court, because you've botched the job." That is what you should be doing. Has that been considered?

Deputy Chief Constable Gillespie: We will be taking legal advice on that, as I said.

The Chairperson: You say that you cannot do it for the architects' fees and that you cannot go back on a tender, but is that not exactly what you have done to find your nearly £20 million? Was that not done by working with the identified bidder?

Deputy Chief Constable Gillespie: No. Absolutely not. The work has been done between the three services and the design team. The preferred bidder designate has not been involved in that process at all — I want to be very clear on that. There has been no negotiation with the preferred bidder designate at all.

Dr Stuart: The original contract allowed for a bill of reductions to be applied, and that was key to the ability to take this forward. In agreeing to tender in the first place, all the economic operators agreed that a bill of reductions was allowed. That is why that is possible. If that had not been agreed in the original tender, it would not have been possible.

The Chairperson: What you are not doing, having identified the reduction of nearly £20 million, is making it available to everybody who put in a tender. You will be sticking with the identified preferred bidder.

Dr Stuart: No. The preferred bidder has not been involved in that process, as Judith said. This is a matter of examining the figures that the cost consultants have redone, looking at the rates and coming up with possible reductions. At this stage, the preferred bidder has not been appointed.

The Chairperson: So everyone who applied will have an opportunity now to apply again?

Dr Stuart: No.

Deputy Chief Constable Gillespie: If I may clarify that, when the cost overrun issue started to become apparent in early December, a meeting of the five bidders was called. They were advised, verbally and by way of follow-up in writing, that we may need to move to a bill of reductions of up to 30% of the capital available. They were asked whether they all agreed to that in principle and, if they did not, they were to notify us of any objections that they had. Not one of the five consortia notified us of any objections that they had to that process in principle. I want, again, to make it very clear that we

have not held any negotiations at all with the preferred bidder designate. The process to achieve the bill of reductions and to identify almost £20 million of savings has been conducted purely by the project team, the three services and the design team.

The Chairperson: That is helpful. Thank you.

Mr Dickson: Thank you for the information that you have provided. I accept what you are saying: the bidders were told that a reduction exercise was going on, and none of them objected to that. Would that indicate to you that they saw the overall contract, even with the cut, as sufficiently fat for them to make a profit?

Deputy Chief Constable Gillespie: I imagine that anybody who is bidding for a contract is seeking to make some sort of profit. However, I do not think that this was a contract in which they perceived a huge amount of fat.

Dr Stuart: The bill of reductions is not a reduction in profit; it is a reduction in the specifications. Therefore, if you get a cheaper product, you pay less for it, but that does not mean that they are losing £20 million of profit.

Mr Dickson: But they will lose some.

Dr Stuart: They will, but, given the market, maybe they thought that was worthwhile.

Mr Dickson: Can we go back to 7 March, when you were here to help us with the issue of the architects and the miscalculations that they made? At that meeting, you said:

"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."

It is now the middle of June. What progress has been made since 7 March?

Deputy Chief Constable Gillespie: We have been in constant contact with the Strategic Investment Board and its legal team. The important factor is that the programme has to show some financial loss for us to make a claim back from the design team. At this point, I cannot quantify that financial loss. However, if there comes a time when we can quantify a financial loss, we will certainly be seeking to redress that through legal action against the design team.

Mr Dickson: Is there somebody, as we sit here today, noting that quantifiable loss? I can give you one example: you are sitting here today, and you should not be.

Deputy Chief Constable Gillespie: Absolutely. In fact, we have been considering all the additional meetings that we have had to attend and the conference recovery group that I have had to establish. All of that has cost money. One could argue that it is entirely justifiable to claim those costs back from the design team, but that is being considered as part of the legal advice that we are getting from SIB.

Mr Dickson: Are you actively taking a note of every single cost, as you perceive it?

Deputy Chief Constable Gillespie: It would be relatively easy to tot all that up, if that were the action that we chose to take; yes. However, I think we are much more interested in the substantial costs. If, heaven forbid, this project did not go ahead, we would, of course, be pursuing very significant redress from the design team.

Mr Dickson: Do you foresee getting some recompense in relation to the errors that were made?

Deputy Chief Constable Gillespie: That is still entirely possible, but we have to base that on sound legal advice.

Mr Dickson: You referred to the majority of the cuts being in the big-ticket issues. This goes back to the whole issue of why it was necessary to spend £8.5 million on designing the campus in the first place. You are only building a series of boxes, one for each service; you are building a few roads; and you are building a test village for riot simulation, getting ambulances in and out and dealing with fire

engines. I suppose it is complicated to cover the three services, but, at the end of the day, you are building three concrete boxes. Was the original design an overstatement? Are the simplifications that you are putting in place where you should have been in the first place?

Deputy Chief Constable Gillespie: First, let me address your comment about the three concrete boxes. You may be aware that it is both an academic and practical training facility. There is, therefore, an academic campus, which has classrooms, as you would expect; administrative accommodation; a central reception hub; and an assembly hall, etc. It has all the things you would expect to see in the likes of —

Mr Dickson: — a modern university.

Deputy Chief Constable Gillespie: Yes, or the likes of Belfast Metropolitan College.

Mr Dickson: How do those prices compare?

Deputy Chief Constable Gillespie: We have benchmarked that through the architectural adviser, and it compares very favourably. We have also benchmarked the accommodation with a recently built local hotel in Belfast — a two-star hotel, I wish to stress. That compares favourably as well. In addition to the accommodation and the academic campus, there is the practical training area, which I think is what you were referring to in your comment about the three boxes. We have tried to simulate a real-life urban environment, with houses, a mock police station, a mock fire station and a mock prison. In addition, there are very specialist facilities, such as the burn house, which, obviously, has to facilitate the burning of material at very high temperatures, and to withstand that very many times. That is a very specialist type of building. Moreover, there is a firearms training facility, which, as you will appreciate, is far more than just a box. If it were just a box, we would be in difficulties. Obviously, we need a lot of protection around that, and there are access controls involved. We also have the dog accommodation and training, which, again, is a very specialist area.

Therefore, you will appreciate that it is much more than just shells of buildings. There is a lot more to it than that, but I acknowledge fully that some parts of the practical training area are just shells of buildings. In fact, as part of the bill of reductions, we have cut back on those shells even further, but they will still be fit for purpose.

Mr Dickson: Some of it is not dissimilar to a movie set.

Deputy Chief Constable Gillespie: That is right; yes.

Mr Dickson: You said that there were the big-ticket issues and some 400 to 500 other issues. I suggest to you that you should not necessarily cut too hard into those other areas because, quite often, you will discover that by making cuts in all those hundreds of small items, you will have done things that have unintended consequences. For example, people will end up with longer walking distances or there will be less access, or there will be permanent queuing due to a small kitchen. I know that from experience in designing university halls of residence. When you make those sorts of cuts, you can create more problems than you resolve, and you find that there was very good reason for things being the way that they were in the first place. Who is rechecking that? Is that being rechecked?

Deputy Chief Constable Gillespie: Again, I stress that it has all been done in consultation with the heads of training of the three services, who have been sighted and involved from the very start of the process and who have consulted their various operational staff — for example, firearms training staff on the PSNI side and training staff on the fire and rescue and prison side — to make sure that we do not do exactly what you have suggested. In addition to that, from the point of view of the functionality and the architectural aesthetics of the programme, we sought an assurance from a world-renowned architect that it was not going to fundamentally undermine the whole image and ethos of the college by trying to scrimp back on additional costs. There were some areas where he challenged us and said, "For a small amount of money I think that you should keep that particular feature, but here is a different saving that you can make somewhere else". We felt that that was a very valuable challenge exercise.

Mr Dickson: There are three players in this, and reference has been made to difficulties that other players have in relation to projects that they have supervised; for example, hospital projects perhaps

not running exactly to the financial model that was set out for them. Given that the Fire and Rescue Service is in a very difficult place with a recent highly-publicised whistle-blowing exercise and its lack of competence to deal with many issues, much of them around procurement and purchasing, how confident can we be that its input to this project is right?

Dr Stuart: The procurement advice for the Fire and Rescue Service element of it is coming through the health estates investment group centre of procurement expertise, so all of the advice on the procurement is through that process. As regards the input to what the requirements are for the Fire and Rescue Service, the business case process looks at that. It starts with the objective and need that you are trying to meet and goes through a lot of detail. That is all being looked at by economists and finance people, starting in the Fire and Rescue Service and in the Health Department — for the fire bit, that is — and then in DFP. So, it goes through a very detailed scrutiny. That is why we are often criticised for the cumbersome process that we have, but it is a matter of going through that to check that it is value for money and that what you end up with meets the need that you started with. That process is going through a range of checks.

Mr Dickson: Can you assure us that people do learn from past failures and mistakes?

Dr Stuart: There are two post-project evaluations for any project. One is a technical post-project evaluation, which looks at the technical lessons learned, and the other looks at other lessons learned. Going back into history, not everybody learns from their mistakes, but there is a process in place for us to learn from them.

Mr Dickson: Finally — Chair, thank you for the opportunity to ask these questions — going back to the redress that you might expect from consultants who appear to have failed substantially in regard to this, I take it that, first of all, there has been no kickback from them? They have actually admitted that they got it wrong?

Deputy Chief Constable Gillespie: Yes. Unusually in this type of complex programme, it is very clear where the fault lies, and they were very quick to acknowledge that in the February programme board meeting, when a senior representative from the design company came to the programme board and acknowledged their responsibility for the significant errors. That is quite unusual, and we are very clear where the fault lies. They have worked hard to restore our confidence by replacing that senior individual, who is no longer working for the company, with a different design lead, as well as replacing their cost consultants and firming up on the contract management.

I should just say that I misadvised the Committee — an additional £4 million is left to be paid to the design team, not £2.5 million as I advised you. So, £6 million has been paid and a further £4 million is to be paid.

Mr Dickson: Following on from the point about the fact that the people have not kicked back and said that they got it right — which is the normal reaction in those circumstances — but there is an admission that things have gone wrong, and given that it has been such a catastrophic failure, have lawyers now been instructed to pursue them under their professional indemnity? Clearly, they have failed under their professional indemnity; or, at least, we would like the courts to test that fact if they want to contest it. Does their professional indemnity extend to £30 million?

Deputy Chief Constable Gillespie: All those issues are being considered by our professional legal advice team in the Strategic Investment Board.

Mr Dickson: Do we know whether their professional indemnity covers such a catastrophic loss?

Deputy Chief Constable Gillespie: At this point, I do not know the answer to that question, but we are seeking advice on it.

The Chairperson: I appreciate the honesty, although I sensed a collective jaw-dropping moment.

Mr Wells: That is a good secondary school in south Down that we are up to now.

Mr McCartney: Take away the architects' fees and you may have three.

Mr McGlone: Just piggybacking on that: £6 million was paid to them and £4 million is to be paid. Are you seriously considering paying the £4 million to them?

Deputy Chief Constable Gillespie: We have to wait until they have delivered certain key milestones that were agreed in the contract. If they do not deliver those, then, of course, we will consider withholding payment, but that will be on legal advice. If we are contractually committed to pay at certain points, we want to make sure that they have delivered their part of the bargain before we pay.

Mr McGlone: But sure they have made a hames of it so far.

Deputy Chief Constable Gillespie: Indeed they have, yes, and they have removed their cost consultants and replaced them with another team.

Mr McGlone: And you are actively considering giving them another £4 million?

Deputy Chief Constable Gillespie: If they achieve the next part of the contract, if they achieve the milestone that we expect of them and if they deliver everything that we asked of them, then, yes, we will pay. If they do not, we will not.

Mr McGlone: That is bizarre.

Mr Lynch: It was stated at the March meeting that the prospect of clawing back some of the £12 million in consultancy fees would be examined. Where is that at?

Deputy Chief Constable Gillespie: That is the same issue we are discussing in relation to the design team.

Mr Lynch: The consultancy fees were £12 million.

Deputy Chief Constable Gillespie: That is probably the total amount of consultancy fees because consultants were engaged to help us to draft the business case. That is a completely different company from the design team.

Mr Lynch: You spoke about bill reductions. Will you be using cheaper materials?

Deputy Chief Constable Gillespie: In some cases, yes.

Dr Stuart: In contractual terms, a bill of reductions allows you to look at a replacement that does exactly the same job, serves the same function and is aesthetically the same. It also allows you to use anything that was priced in a different way. Say, for example, that you have 10 apples and 10 pears in your first contract. You can change that to three apples and 17 pears as long as you have a price. What you cannot do is bring in oranges at that stage. You can use the rates that you have in order to reduce using the bill of reductions but not to add in anything that you do not have already.

Mr Lynch: Are you confident that that will not compromise the overall project?

Dr Stuart: It is allowable in terms of compliance with European rules and is in compliance with the contract terms. As Judith explained, they took great care in the exercise not to affect the functionality and ethos of the building. Contractually, it is allowable.

Mr Lynch: I think that it was you, Judith, who said that there were positive changes as a result. What were they?

Deputy Chief Constable Gillespie: For example, bringing the police and fire and rescue together. The whole programme is about partnership, integration of training and sharing facilities. In some areas, the bill of reductions has forced us to work in even closer partnership. As I said, reconfiguring some buildings in the practical training area replicates an urban situation more accurately. Those are positive benefits.

Mr Lynch: Was the process worthwhile overall?

Deputy Chief Constable Gillespie: It has been incredibly challenging and difficult. We have had to make difficult decisions where we have had to weigh up the value for money and the compromise on what we were all hoping to achieve. I can say with certainty that I have been assured by the programme team, by the three senior service representatives who worked on the bill of reductions and by the independent architectural review that this will still be a fabulous, state-of-the-art, fit-for-purpose and world-leading facility that will attract interest from all over the world.

The Chairperson: I want to clarify a point that Mr Lynch made. Are the other consultancy fees for the business case and the programme project management?

Deputy Chief Constable Gillespie: That is right.

The Chairperson: Is it the same consultant or company?

Deputy Chief Constable Gillespie: The programme management team is a team that is a mix of the three services plus secondees from the Strategic Investment Board, so there are their salaries. Yes, we engaged consultants to help us to draft the business case, and they also helped us on the business case addendum.

The Chairperson: That is the further business case that is now being worked up.

Deputy Chief Constable Gillespie: Yes.

The Chairperson: That would not have been necessary if we had not had to do this work.

Deputy Chief Constable Gillespie: That is true, yes.

The Chairperson: So, that certainly would be seen as a financial loss.

Deputy Chief Constable Gillespie: Yes.

The Chairperson: Do you know how much the estimated figure is currently for the addendum business case?

Deputy Chief Constable Gillespie: I do not, but I am sure that I can find that figure out very quickly for the Committee, if that helps.

The Chairperson: OK; thank you.

Mr McCartney: Thank you very much for the presentation. We have three broad chunks of where we are at: governance, the bill of reductions and the business case addendum. So, in theory, we are in a better place than we were when we got the update in March. The practice of this has to be tested, and, hopefully, it will be tested to the positive. In your presentation, Judith, you said that you got advice from a senior counsel that the process was now sound.

Deputy Chief Constable Gillespie: That is the procurement process.

Mr McCartney: Yes. Was the senior counsel asked to reflect on the previous process and where that went wrong, or was it just on the process as it is now?

Deputy Chief Constable Gillespie: The advice that we were given was purely on the procurement process, although, of course, he did cover in his advice his summary of how he saw things had gone wrong. He did not offer a legal opinion on that, and we did not ask him for that. We simply asked him for advice on the appropriateness of the procurement process and on whether we would be vulnerable in any way if we went to preferred bidder.

Mr McCartney: I assume that a review has been carried out of all aspects of this. The design team said on eight separate occasions that there were no issues. Has anyone come to an analysis of where the design team should have said that there was a problem, as I assume that it did on the ninth

occasion? Has anyone identified where that should have been spotted and who was providing oversight?

Deputy Chief Constable Gillespie: We have had a number of reviews, most recently by our own internal audit in PSNI, of where these issues should have been picked up. Of course, it is always easy to say with the benefit of hindsight that issues should have been picked up, but changes were being made at every stage. Earlier, I referred to the fact that, when we made a change in one area, if that added additional cost, that meant that we had to make savings in another area. We kept a very strict design change register so that, as a programme team, we could show that where the client — the PSNI, the Fire and Rescue Service or the Prison Service — had suggested a change to the design that involved an additional cost, we had to make a cost saving somewhere else. We can evidence that in our design change register. Unfortunately, the design team, on some occasions, made changes without consulting the client. It made changes at additional cost or changes that it simply did not advise to the design change register. That was a fundamental flaw, and we discovered that after the fact. Also, we discovered that its market testing of the costing was flawed. The cost consultants had made considerable errors in that area. Of course, all of that only became clear when we went to the market and started to get the bids back from the five economic operators.

Mr McCartney: I appreciate that, in hindsight, everything becomes very clear, but this was not something that went slightly over budget or moderately over budget. Everyone accepts that it went significantly over budget. Sometimes, when someone is building a building, the local gossip is that they are way over their projections and so on. There does not seem to have been any pickup here at all. People came on eight separate occasions, over the best part of 17 or 18 months, yet no one around the project said, "There is a flaw here, and we are not being told". Is there any report in any of the minutes that anybody challenged the approach of the design team?

Deputy Chief Constable Gillespie: When the team reported to us on those eight separate occasions, it told us each time that we were within our budget. There was always a variation between £100 million and £102 million maximum, but it was always there or thereabouts. Before we went to tender, we got the sample reviewed by another company, which also gave us an assurance that we were within 2% to 4% of the budget and that the design team's calculations were correct. It did not review all the costs, but it did a 25% sample and gave us that assurance. You can say, with the benefit of hindsight, that we should have been more rigorous and should have double-checked, but, as has been said on a number of occasions in this Committee, we were paying the design team £6 million to do its job, and it did not do its job. How much extra could we have been expected to do in checking, double-checking and triple-checking a professional design team that is supposed to do its job?

Mr McCartney: That takes me to a wider point that is possibly not your sole responsibility or the project's sole responsibility. When someone is tasked to do a job and is well paid, yet they do not appear to deliver, not only do they not appear to deliver but, in some sense, there is a public confidence issue with the project. It is more than just bricks and mortar. It is about competence and a number of organisations. To date, no one seems to have been brought to book, for want of better words, over this. I am not saying that this happened, but it seems that you may have thought, "Let us get over this. Let us get it done and perhaps some of the ripples might disappear". Is there any suggestion that the Comptroller and Auditor General or the Public Accounts Committee should pore over this to learn lessons for the future?

Deputy Chief Constable Gillespie: I am sure that, in due course, the Public Accounts Committee may wish to look at the issue. I absolutely accept your wider point about confidence, and that is why, as soon as I became aware of the issue, I established a confidence recovery group that met weekly to deal with the emerging issues and to try to make sure that we kept our stakeholders well briefed and well involved. So, yes, it is a wider confidence issue. We all want the programme to succeed, but we do not want it to succeed at all costs.

Mr McCartney: I have another broader point, and perhaps Dr Stuart will have an insight on this. I have no great knowledge of capital projects, but from the limited knowledge that I have, I sometimes see professional fees at 10%. Is that legislated for?

Dr Stuart: It is a rule-of-thumb percentage, but it is done by competitive tender. It includes architects, quantity surveyors, design consultants, and so on. It is a broad rule of thumb. It is not a fixed number, but you normally expect it to be around that figure for a major project.

Mr McCartney: You never see construction at 20%. It gives rise to a sense that people strike their fee based on the price of the project irrespective of similar projects. I know that this is a unique build, but if you are building 50 houses, you would expect the architect's fees to reduce if the specifications are the same and you are pulling things together. However, it seems to be struck at a percentage even though no other cost is struck at a percentage.

Dr Stuart: The rule of thumb can probably be interpreted in the way you say. However, when it comes to the tender, it is a price for the works. It is probably not the same figure on every project. Some are simpler than others. It is a rule of thumb that we use when planning the budget, but an individual price will come in for each one.

Deputy Chief Constable Gillespie: If I may, I will go back to the issue of the design team and no one being brought to book, to use your words, Raymond. When this issue emerged, we did, of course, consider the options with regard to the design team going forward and whether we should continue to employ it on the programme. We fully considered that as an option. However, as I think that I briefed the Committee at its meeting on 7 March, to sack the design team would always have caused a risk, in that we would have had to reprocur a new design team and the new design team, inevitably, would have blamed any problems, issues or challenges on the previous design team. That would have put us in a doubly complex contractual situation. We considered that carefully and took legal advice on it. However, we decided that, given all the changes that the design team had made to its senior personnel, cost consultants, contract managers, etc, the best way forward was to continue with that design team but to hold its feet very close to the fire on delivery. I think that that was the point that Patsy was making.

Mr McCartney: OK. This is my final point. Has the design team indicated that, at any time during the eight meetings between May 2011 and October 2012, it should have told you that there was an issue?

Deputy Chief Constable Gillespie: Did the design team say that it should have told us that there was an issue?

Mr McCartney: The issue appeared at meeting nine. The design team gave eight categorical assurances that there were no issues. At meeting nine, they seemed to come in and say, "Listen, we have a big problem here. We are millions of pounds over budget".

Deputy Chief Constable Gillespie: Remember, meeting nine was at our request, because we were getting the intelligence in from the market.

Mr McCartney: Has the design team said, at any stage, to you, "Look, we should have told you at meeting four that there was a problem, but we just tried to ignore it"?

Deputy Chief Constable Gillespie: No. They have not specified a particular point at which they should have told us, but they have accepted responsibility for not telling us.

Mr McCartney: What process is in place? I want to choose my words very carefully, but is there any sense of you being misled?

Deputy Chief Constable Gillespie: Do you mean now?

Mr McCartney: No, at the time. If someone knew, at any time between May 2011 and October 2012, I am sure that, under their contractual arrangement, they had a duty to tell you that they were on a course that was going to lead to them being under specification. Let me put it like this: it is very hard to believe that it took you to ask them whether they had a problem before they said, "Yes, there is a problem". Someone in the office must have known that they were way over cost. There does not seem to be any sense that the people who were handling the design felt, in any way, that they were off message and had to tell you. That is how it appears.

Deputy Chief Constable Gillespie: At no stage was any suggestion made to me, by anyone in the design team, that someone in the team had put their hand up and said, "Wait a minutes folks, we are way over budget here". That did not happen. That only happened in December, when the programme team, having got information from the market, went to the design team and said, "Look, you have got this badly wrong, and you need to do your calculations again. The market is telling us that this is totally off kilter". It was only then that they came back and told us that their estimate was £137 million.

Mr McCartney: But they had not tested it.

Deputy Chief Constable Gillespie: No, because they got their market testing badly wrong, they underestimated the cost of some of the additional security requirements and their cost consultants got it badly wrong. There were some areas where they did not communicate with the programme team about changes that they had made for the design change register.

Mr McCartney: What was their basis for removing the individual who was removed?

Deputy Chief Constable Gillespie: I think that you would have to ask the design team itself about that matter.

Mr McCartney: Did they not explain that to you?

Deputy Chief Constable Gillespie: Not specifically. I understand that the person has moved on to another job.

Mr McCartney: When you are charged with this and someone comes and tells you that they have made a mistake and have removed someone, I think that an obvious question that you should ask is why. I do not know and do not want to burden the individual, but I am sure that when he was told that he was not on the job any more, he was given specific reasons.

Deputy Chief Constable Gillespie: This individual came to the programme board and accepted responsibility for the mistakes that had been made, and, within around two weeks, he was no longer working on the design. I think that the facts speak for themselves.

Mr McCartney: We do not know what the facts are, so they do not speak.

Deputy Chief Constable Gillespie: He is no longer working for that company. He has been replaced.

Mr McCartney: My point is that he could be the sacrificial lamb, which makes it look as though they are owning up to their responsibilities. If we do not know, at the core, what led to the mistakes, in 10 years' time, we could have a different project and face the same issues. So, whatever the mistakes were, you are putting in place correction measures and are confident that they will take us forward. However, at the end of this process, we have to know what went wrong. At present, we do not know what went wrong, and that is the worrying part of this.

Deputy Chief Constable Gillespie: We have a pretty good idea of what went wrong, given the number of reviews that we have had. We have highlighted a number of areas, and some recommendations have been made, such as tightening the contract management. Another recommendation is to make sure that there is more local accountability for the design team. A Chicago-based company was involved in this instance, and sometimes communication, simply with time differences etc, was quite difficult. We now have a more local contact, which means that there are more regular face-to-face meetings, as well as much tighter contract management and better communication. All in all, I am much more assured that the design team has taken all of our concerns seriously. I did not get that assurance at the first meeting with the senior representative. That representative has left, but he has been replaced by an individual with a proven track record of delivering complex, major capital projects. So, we are much more assured.

Mr Wells: Was the payment of the fees made on a quarterly or monthly basis?

Deputy Chief Constable Gillespie: Neither; payment was made once certain milestones in the programme were delivered.

Mr Wells: So, you had eight meetings. Could it be the case that, at the first meeting, problems were not revealed so that the cheque would come in and that, at the second meeting, no problems were revealed so that another cheque would come in, and so on?

Deputy Chief Constable Gillespie: No, that is not my understanding of how the fees are paid.

Mr Wells: Were there any fees paid between the first meeting and the eighth meeting?

Deputy Chief Constable Gillespie: I am sure that there were, but I am not sure when they were paid.

Mr Wells: Can you see where the incentive is to keep the bad news back until as late as possible?

Deputy Chief Constable Gillespie: I understand the imputation in your question. I do not think that that is what happened, but I understand what you are saying.

Mr Wells: It would be extremely serious if it was proven that the team knew by, say, the third meeting that there were problems with the project and that it allowed the situation to continue until the ninth meeting. It would be very interesting to know how many fee cheques came in during that time.

Deputy Chief Constable Gillespie: There is no suggestion of that in any of the reviews that have been done, both internal and external. There is no suggestion that that was the case.

Mr Wells: It is provable whether there were cheques or fees paid to them in that period.

Deputy Chief Constable Gillespie: Yes, we can see exactly when fees were paid during that time.

Mr Wells: Another question is this: how long would this have gone on for had the ninth meeting not been called? When would this have become apparent?

Deputy Chief Constable Gillespie: The checks and balances in place picked this up, fortunately.

Dr Stuart: The market spoke when the economic operators tendered and said that they could not tender within the works cost limit. That was the market saying that the figure was wrong.

Mr McGlone: On a similar thread to what Jim said, Deputy Chief Constable, I heard you say that the firm has accepted responsibility for not telling you. I wrote that down when you said it. That begs this question: how long was it going to play this out and how long did it know? If it has accepted responsibility for not telling you, obviously that meant that it should have told you.

Deputy Chief Constable Gillespie: It accepted responsibility for the cost errors and the communication problems between the design team and the programme team.

Mr McGlone: As a matter of interest, how many people were on the design team?

Deputy Chief Constable Gillespie: I do not know. It was quite a large team, but I can find out the exact number if it would be helpful to the Committee.

Mr McGlone: I presume that the design team was headed by a senior person.

Deputy Chief Constable Gillespie: Yes, that is correct.

Mr McGlone: Is it the senior person who has gone?

Deputy Chief Constable Gillespie: Yes, it is.

Mr McGlone: OK. That is clear. Thanks very much for that.

The Chairperson: If I picked you up right earlier in the meeting, the design team subcontracted out the cost consultancy and that is where it went wrong.

Deputy Chief Constable Gillespie: Yes, that is correct.

The Chairperson: One of the points that Raymond mentioned concerned the independent body that carried out the sample review. Who was it?

Deputy Chief Constable Gillespie: That was another company called White Young Green.

The Chairperson: How much was it paid?

Deputy Chief Constable Gillespie: I can find that out for the Committee if it would be helpful.

The Chairperson: I take it that that is another company that you are looking at. Obviously, it got it wrong, because it verified that the cost consultancy team that got it wrong was right.

Deputy Chief Constable Gillespie: White Young Green would say that it based its analysis on information that was provided to it by the design team. There would be an argument between the design team and White Young Green as to where the fault lay. It was a separate company from the design team.

The Chairperson: It was certainly part of your checks and balances. You had an independent company that carried out a sample review, which, obviously, gave you the assurance that you could continue in the knowledge that things were OK, but it got it wrong.

Deputy Chief Constable Gillespie: That is right. That was done on the advice of the Health Estates COPE before we went out to tender.

Mr Easton: I declare an interest as Assembly Private Secretary to the Health Minister.

I was interested to hear about the capital spend and the need to find £10 million. Then, you let us know that there was maybe another £8 million for some different type of capital expenditure. What type of capital expenditure was that extra £8 million for? That seems to have gone over budget. Whose fault was that?

Dr Stuart: It is not actually an extra £10 million and then an £8 million. It is when —

Mr Easton: You said £18 million, did you not?

Dr Stuart: Yes, it is £18 million. When the business case is redone, a certain amount of figure work goes into it. One of the figures refers to the optimism bias, which includes a number of things but, effectively, it is for managing risks that are associated with the project, such as contingencies that might happen or unexpected things. That is a percentage that is applied to the figure, so as the figure goes up, that cost goes up.

ICT is included in the total capital cost as well. The figure of £100 million that Judith referred to at the beginning was for the actual construction cost, but to that, you have add ICT, professional fees and optimism bias. When you redo the figures and do the bill of reductions, that brings the total figure to —

Deputy Chief Constable Gillespie: £157.2 million.

Dr Stuart: It is roughly £17 million above. It is not that there was a £10 million and then it became a £17 million. When you bring it into the total equation, including the optimism bias and so on, it results in a £17 million addition.

Mr Easton: So, as a result of the design flaws — well, not the design flaws but the market prices — that all added up extra?

Dr Stuart: The optimism bias would have a knock-on effect because it is a percentage of the construction cost.

Mr Easton: So, because of that, the design team is basically going to cost you an extra £17 million?

Dr Stuart: Yes.

Mr Easton: OK. I want to ask about the contract. Most contracts have penalty clauses in them. Do your contracts have penalty clauses?

Deputy Chief Constable Gillespie: Are you referring to the contract with the design team?

Mr Easton: Yes.

Deputy Chief Constable Gillespie: I presume that it does. Obviously, that is something that we will have to look at.

Mr Easton: Would you be able to come back to let the Committee know about that?

Deputy Chief Constable Gillespie: Yes. I will be happy to write to the Committee about all those questions around legal advice, if that helps.

Mr Easton: Contracts usually contain those types of clauses so that, if things go wrong, it may allow you to claw some of your money back. It would be interesting to know whether those clauses are in your contracts.

The Chairperson: Just for my own understanding — forgive my ignorance on this — the infrastructure underestimate was £30 million. Is that right? I am trying to bottom out what this £8 million is. The infrastructure side of it has been reduced from £30 million to just over £10 million of the deficit that you are trying to fill, but you still have this £8 million of the other capital costs to do with IT and things like that.

Deputy Chief Constable Gillespie: The original capital cost estimate was around £101 million. Then, it transpired that it was going to cost a lot more than that to build what we hoped to build. In December, the design team told us that it was going to cost £137 million.

In the meantime, as I said, we had worked very hard through the bill of reductions to bring the capital cost for the construction of the buildings down to around £113.9 million. On top of that, there were the ICT costs, the design team consultancy costs, the cost of running the programme and the optimism bias costs. When you add all that together, the total cost of this programme is now around £157 million. Previously, it would have been around £139 million. We are roughly £18 million over budget, which is about 13% or 14%.

Mr Elliott: Thanks for the presentation. I was going to start with that, but I think that it has been explained in answer to the Chair's question. You are saying that £157 million is the top line figure and that that includes design team costs.

Deputy Chief Constable Gillespie: That is the figure for the whole programme from start to finish.

Mr Elliott: Does that include the purchase of land?

Deputy Chief Constable Gillespie: And the disposal of land. It includes the site cost and the cost of disposing of Garnerville and Steeple.

Dr Stuart: That is compared with the original figure of £140 million before this happened.

The Chairperson: That figure was upwardly revised from the initial figure of £103 million.

Dr Stuart: No, the £103 million was the construction cost alone. There are two figures: the construction cost and the project cost. The £103 relates to the £140 million, and the new cost equates to the £157 million.

The Chairperson: I am glad that we will have that in Hansard. *[Laughter.]*

Mr Elliott: I think that I have got it. The only confusion is that the briefing that we got today gives a figure of £155 million for the overall cost, but you are saying that it is £157 million.

Dr Stuart: These figures will not be tightened up until we get to preferred bidder and contract stage. They are moving because, as you know, the contingency is a variable. At this point, it is approximately £155 million to £157 million.

Mr Elliott: The Chair asked you about the other advisory group, and you said that it is White Young Green. Is that who you classed as the world-renowned architect?

Deputy Chief Constable Gillespie: No, that is another individual who we engaged to review the bill of reductions. That is a completely different individual who is not connected with White Young Green.

Mr Elliott: So, that is another independent consultant who came in to have a look at the consultants.

Deputy Chief Constable Gillespie: Yes.

Mr Elliott: How much did that cost?

Deputy Chief Constable Gillespie: A very small amount: about £2,000. It gave us, as the programme team, an assurance. This was a very important piece of work. His report has added a huge amount of value, even to our conversation today. It has enabled me to say that such an internationally renowned architect has said that this bill of reductions will not compromise the ethos and functionality of the college. That was an important assurance for me, as SRO, and the programme board.

Mr Elliott: I assume that, in layman's terms, "the ethos and functionality of the college", basically means the change in design and, as you described it the last day, the smaller roadways or those that are not up to the same spec.

Ms Louise Warde-Hunter (Department of Justice): And the integrated nature of bringing the three services together. I think that that is what the deputy means by ethos.

Mr Elliott: Having said that, you are not getting the college that was designed.

Deputy Chief Constable Gillespie: We are getting as good a college as we can for the available capital.

Mr Elliott: But you are not getting what was originally designed.

Deputy Chief Constable Gillespie: No, we have had to compromise on some things. There are some things that we have had to leave out and some things that we have had to bring together. However, a key issue for us is that the vast majority of police, fire and rescue and prison training, both academic and practical, will take place on the college site. As part of our bill of reductions, we considered other possibilities that might have required training to be delivered elsewhere; for example, firearms training. We have a firearms training facility in Garnerville. One option might have been to leave out the firearms training facility altogether and retain the one at Garnerville. However, it was felt very strongly that that would compromise the ethos and functionality of the college in that it would mean that a substantial part of our practical training would not take place at the Desertcreat site. It would also have meant retaining the Garnerville site and spending money on it to bring it up to minimum health and safety standards. So, that option was ruled out.

Mr Elliott: Judith, you stated today that the design team made a critical error. The last day that you were here, your colleague Mr Smyth said that there was professional incompetence. You also said today that you have a pretty good idea of what went wrong. Surely, if you are aware that there was professional incompetence and that there was a critical error made by the design team, would it not be prudent for you to be absolutely sure, by now, of what has gone wrong, as opposed to having a pretty good idea? I have to say that, at this stage, I — and I assume most other members of the Committee — would want to be absolutely certain, and the public, whose money is being spent, would want to be absolutely certain that you knew what went wrong and that there will be no recurrence of it. I know that you can never be absolutely sure, and I totally accept that, but there needs to be assurance and public confidence at the moment, which there is not.

Deputy Chief Constable Gillespie: We are absolutely certain that the design team made fundamental errors with its cost consultants on the costing of the college. It is crystal clear that that is where the fault lies and that is where the errors were made. We are also clear that there was a lack of communication between the design team and the programme team on some of the changes that the design team was making to the programme. We are very clear on those issues, and I want to reassure the Committee of that. We have taken proactive steps to make sure that those mistakes do not recur during the programme.

Mr Elliott: However, you said that you had a pretty good idea of what went wrong. Was there more to it than just communication and what actually went wrong in the design team costing?

Deputy Chief Constable Gillespie: Those are the substantive issues. In any major complex programme like this, which involves three services, two Departments, an independent design team, a COPE, etc, of course, from time to time, there are going to be minor issues that emerge and have to be managed. However, those were the critical issues that led to the position that we are in today.

The Chairperson: If no other member has anything else that they want to ask about, I will ask a final question. Judith, you talked about the fact that you have initiated this confidence recovery programme. Is that what you called it?

Deputy Chief Constable Gillespie: Confidence recovery group.

The Chairperson: I have a fair amount of sympathy with you, in that you are having to answer for a design team with which, you say, the fault for how this all went wrong entirely lies. However, there are also those who ask about the role of the group that you were in charge of. They wonder why that was not identified. How do you feel that the failures of the design team have reflected upon you and the team that you are in charge of?

Deputy Chief Constable Gillespie: Obviously, we are very disappointed by the whole process. We feel that it reflects poorly on the programme and it reflects a lack of confidence from our sponsor bodies, the accounting officers in the Departments and the Ministers. I convened the confidence recovery group to make sure that we were taking the immediate actions that needed to be taken to redress that confidence gap. I know, through meetings with the accounting officers and, indeed, with the Ministers, that we have moved very quickly to get legal advice and independent governance assurance, all of which has commented favourably on the leadership of the programme and the leadership of the project team. In a number of cases, certainly in the internal review by our internal audit, it was said that it is not certain that, even with more focused risk management and better communication, those issues would not have occurred and that we would have identified them. That is mentioned in a number of places in that report.

This is obviously not something that has been comfortable for any of us involved in this programme. We are all very determined to make it succeed. We want to restore confidence and make sure that it is affordable and offers value for money, and that we have a world-class training facility for future generations long after I have left the PSNI. That is a really important vision of mine. However, this is not a programme that we are prepared to pursue at any cost. If there comes a point in time when it is clear that this is not going to represent value for money, we will put our hands up and say so. However, at this time, I am still convinced that this is a viable programme. The three services have bought into it. We want to make it happen, ethically and with integrity.

The Chairperson: Thank you, Judith and your team, for coming along today. It has been much appreciated. Obviously, some issues have come up that we want some more detail on, and we will write to you seeking that information. Thank you for your time.