



Northern Ireland  
Assembly

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**COMMITTEE FOR  
FINANCE AND PERSONNEL**

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**OFFICIAL REPORT**  
(Hansard)

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**Inquiry into Public Procurement Policy  
and Practice in Northern Ireland**

30 September 2009

**NORTHERN IRELAND ASSEMBLY**

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**Inquiry into Public Procurement Policy and Practice in  
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30 September 2009

**Members present for all or part of the proceedings:**

Ms Jennifer McCann (Chairperson)

Dr Stephen Farry

Mr Mitchel McLaughlin

Mr David McNarry

Mr Adrian McQuillan

Mr Declan O'Loan

**Witness:**

Dr Glynis Davies ) Chartered Institute of Purchasing and Supply

**The Chairperson (Ms J McCann):**

I remind members, witnesses and those in the public gallery that this session is being recorded by Hansard and that all mobile phones must be switched off.

I welcome Dr Glynis Davies, the project manager of the Chartered Institute of Purchasing and Supply. Please give your presentation and then the Committee will ask some questions.

**Dr Glynis Davies (Chartered Institute of Purchasing and Supply):**

On behalf of the institute, I express my gratitude to the Committee for inviting me to give evidence. It may be helpful if I say a little bit about the institute which has 50,000 members in 150 countries. It was established in 1932 and was awarded a royal charter in 1992.

The Chartered Institute of Purchasing and Supply (CIPS) promotes and develops high standards of professional skill, ability and integrity among all who are engaged in the purchasing and supply-chain management profession. CIPS assists individuals, organisations and the profession as a whole. Our members work across the public, private and voluntary sectors. We deliver our goals through four areas of activity. First, we provide professional qualifications and training for practitioners, from introductory to graduate level. Secondly, we promote excellence in organisations, helping them to maintain the highest standards in their purchasing and supply-management functions. That includes training staff and accrediting their procurement methods. Thirdly, we support academic research in our field. Finally, we represent the interests of our profession in the wider community and influence government and EU policy on procurement.

I joined CIPS in 1990, achieved membership in 1991 and have been a fellow since 1998. CIPS asked me to represent it today because of my experience in the public sector. I have led the procurement function in a number of public-sector organisations, including the Department for International Development, Brighton and Hove City Council, the British Council and, most recently, Birmingham City Council. My interest in the economics of procurement relationships between the public sector and the private sector informed my work as director of contract innovation at the Office of Government Commerce (OGC) between 2002 and 2004, and my PhD, which I completed in 2004.

CIPS is aware that small and medium-sized enterprises (SMEs) can play a significant role in the supply chain, and we are aware of some barriers to their participation. Those barriers have included economies of scale, standardisation drives, and the importance of security of supply. There are also perceived barriers, including bureaucracy, lack of understanding of SMEs and complexity of processes. We recognise the importance of the EU rules on public procurement and that those rules can make for a process that may seem daunting to the newcomer.

In total, EU countries command a public-expenditure spend of €175 billion. That is a vast market, much of which is available to many SMEs once they have mastered the EU rules. By contrast, the Northern Ireland public-sector spend is in the order of €2.2 billion. CIPS supports initiatives that enable SMEs to contract with the public sector. Through training and influencing, CIPS encourages its members to facilitate SME participation in public procurement. We consider it essential that trained professional personnel exercise the procurement role in public-sector

organisations.

CIPS makes seven key points to its members and others on the topic of contracting with SMEs. Our first point is that contracting information should be made available and accessible to SMEs, especially for all contracts that fall below the EU limit, including through portals such as 'supply2.gov.uk' and the similar one that has been developed here by the Central Procurement Directorate (CPD). Our second point is to encourage prime, or first-tier, suppliers to work with SMEs, as BT, HP Enterprise Services and other big suppliers to central government are doing. SMEs should be encouraged to collaborate on public-sector contracting.

Thirdly, guidance should be kept clear and easy to find. It is often difficult to make information easy to find, but it is crucial to do so. Unnecessary jargon and acronyms should be avoided. Fourthly, the training of local SMEs should be supported so that they can bid under EU rules, not only for local contracts but for opportunities across Europe. Fifthly, it should be ensured that all contract requirements that are set out are genuinely necessary to the delivery of the contract. Sixthly, effective communication must take place with all would-be bidders, and subsequently bidders, throughout the procurement process. Last, but by no means least important; open, constructive and educational feedback should be given to unsuccessful bidders.

The institute recognises the complexity of public-sector procurement, which seeks to achieve three sets of objectives. I often think of it as a circle with arrows pointing in three different directions, rather like the Mercedes symbol. First, there is the importance of getting best value for taxpayers' money. Secondly, there is meeting the requirements for transparency and regulatory compliance, including EU rules. Thirdly, there are policy requirements, including the SME agenda and other economic, social and environmental requirements. Those three aspects do not point in the same direction for all procurements. It is a difficult and challenging task to achieve the best possible outcome.

Sometimes, private-sector procurement is more straightforward. We like to think, and, indeed, I believe, that CIPS professional training helps our members to relish the challenges of public-sector procurement and meeting those three sets of objectives. Public-sector procurement is a different task compared to procurement in many private-sector organisations. Colleagues who move from one area to the other are often taken aback by just how challenging it is; and, of course, how interesting.

**The Chairperson:**

Thank you. A number of members have indicated that they have questions.

**Mr O'Loan:**

Thank you for coming. Thank you, too, for your submission, which was sent in advance, and for your opening remarks. It might be useful if you were to give us copies of those afterwards.

I want to talk about framework agreements. The Committee has heard evidence that SMEs can be ruled out of procurements at the pre-qualification stage over issues such as insurance, turnover and the exact type of past turnover. There is also the argument that frameworks offer value for money and economies of scale. What was your experience of frameworks in England? Do the same lessons apply to other regions; in particular to this region, which is distinctive in its characteristics?

**Dr Davies:**

Frameworks do not have to rule out SMEs. If one is dealing with a series of smallish contracts — and I have often been involved with such frameworks — one sets up a framework in order to avoid running big procurement exercises for relatively small contracts, and doing so repeatedly. In such a framework, it is possible, even likely, that the requirements to get through the first stage, the so-called pre-qualification questionnaire (PQQ) stage, are no tougher than for those smaller procurements that would have happened one at a time at great administrative cost to the public purse. There does not have to be a difference.

However, some frameworks are intentionally larger. In those cases more insurance is required. One needs to know that the company will be in existence for the four years that the framework may run, and so on. Therefore, it is very much case by case. It is not possible to say that frameworks are good or bad for SMEs; it depends how they are organised. There is an argument that it costs an SME or private-sector organisation a great deal of money every time it bids in a major competition. Frameworks can also save money for bidders, because they submit their bid at the beginning, and are then included in the framework. After that, bidding is through mini competitions, the administration of which is cheaper for them as well as for the buying organisation.

**Mr O’Loan:**

What about economies of scale in this region compared with other regions? One argument is that if frameworks are used here, one will end up with a small number of big bargains, and that can end up excluding companies and can often lead to litigation, because the stakes are too high.

**Dr Davies:**

I confess that I have read the Hansard reports of previous meetings, so I have come across the arguments that other witnesses have made. I am not aware that it is a problem in Birmingham or Brighton, but it is a while since I sat in the OGC. However, at that point, we were not aware that it was a problem. It is about how markets operate. For example, Birmingham has an annual spend of well over £1 billion. The social care budget is difficult to estimate, so the total Birmingham spend could be £1.5 billion. However, for sake of argument, I will say that it is more than £1 billion. As members know, Birmingham is in the west Midlands, and, therefore, there is a lot going on around it. Any framework that Birmingham sets up does not exclude people who work in Wolverhampton or Coventry. On the other hand, I am aware that OGC Buying Solutions, when thinking about the whole of England, do consider the matter carefully and, as a result, set up the frameworks carefully.

**Mr McNarry:**

You are very welcome, and thank you for reading the Hansard reports. That is quite a compliment. Not many people read Hansard reports about certain things; so, you have done your homework. Your submission states that buyers perceive that SMEs can pose more of a risk than large organisations. What is your assessment of that negative perception of risk? How could it be overcome?

**Dr Davies:**

It is about appropriateness, and I must be careful not to tell incredibly local anecdotes that will not help the Committee. However, I am aware that when one is considering a contract and thinking about how to procure help to make the project progress, it is advisable to consider the size of the project and the size of the company. I am sorry; I will have to tell a local anecdote.

**Mr McNarry:**

You are bursting to do that.

**Dr Davies:**

The chap who put the roof on my house was concerned that he could not get work from the council. Later, I worked for the same council as head of procurement. Although I had sympathised with the chap two years earlier, my job in the council made me realise that, given the roofing work that the council required, there was no way that he, his father and his brother could have bid for the work. They did small roofs, and they did them very well. Indeed, I recommend him if members ever need a roofer in Brighton.

**Mr McNarry:**

Gordon Brown needs a roofer in Brighton at the moment. *[Laughter.]*

**Mr McLaughlin:**

He will need a roof soon. *[Laughter.]*

**Dr Davies:**

That roofer did not have the capacity to roof three or four schools.

**Mr McNarry:**

Did he tell you that or did you make that assumption?

**Dr Davies:**

I did not just make the assumption; our roof took a while to complete. By the time it was finished, I knew him and his business quite well. However, I am straying from the point.

If someone wants a small job done locally — for example, craftwork — that person should use a small, local supplier. A lot of flint work is carried out where I come from, and I imagine the situation is similar here, with thatching and so on. However, if someone wants major work done, such as building a mass transit system, that person needs the backing of a big organisation. There is a very good place on big projects for smaller suppliers in the supply chain. The OGC has produced a very interesting document about how their suppliers use smaller suppliers. That works very well for everyone. For smaller pieces of work, one can use smaller suppliers.

**Mr McNarry:**

In your submission you say:

“Contracting authorities should also request feedback from suppliers on the tendering process in order to make adjustments for next time.”

How important is that feedback? It seems to me to be a valid point. Is there a gap, in that people do not have time to give feedback? What should happen with feedback when it is received?

**Dr Davies:**

Feedback is always important; it is the only way we learn. On many occasions throughout my career in procurement, I have given feedback to unsuccessful suppliers, and I have been thanked by them later for teaching them how to bid. I told them what was right and what was wrong in their bids. Similarly, supplier feedback on contracting processes can be very useful to the procuring organisation.

However, one has to be careful to distinguish between helpful and unhelpful feedback. Bidders who have not won contracts are rarely happy, and they will sometimes give feedback that is not helpful. One should not acknowledge that with them: it is better to thank them for their feedback even if most of it could not be printed in a Hansard report. Of course, they also give helpful feedback; perhaps they have found a particular passage in the documentation easy to read while others were more difficult. One has to think about those things and improve them.

**Mr McNarry:**

Would you recommend that that should be encouraged more actively than it is now?

**Dr Davies:**

Our members generally get feedback. One should not encourage too much feedback, because it would be difficult to deal with if every supplier sent a 20-page document. I encourage procuring organisations to simply talk to suppliers afterwards to determine what they thought. We already encourage that, and I am aware that public-sector procurers generally do so. It is not an innovation.

**Mr McNarry:**

I do not think that it is practiced to that extent. From what I can gather, everyone seems in such a hurry, and perhaps lines of communication do not carry through.



**Dr Davies:**

I still hesitate to call it a recommendation for the future. It is something that I would continue to encourage.

**Mr McNarry:**

We might consider it as a recommendation.

**Dr Davies:**

Of course.

**Mr McNarry:**

Given the banking pressures that are being felt by everyone today, do you see evidence that SMEs are experiencing difficulties with their banks as regards credit facilities? Might that interfere with their ability to tender for and fulfil a contract?

**Dr Davies:**

I have read about that in the 'Financial Times' and heard about it from friends and colleagues, but I could not give you specific examples at the moment. I imagine that it is an issue.

**Mr McNarry:**

If we are both imagining the same thing; are there any easement practices that the Government might help with as an enabling process in those circumstances?

**Dr Davies:**

A proposal was made in the city of Birmingham some months ago that the council set up a Bank of Birmingham. When I handed over to my successor, work was still ongoing on that topic, and I do not know if it has got anywhere.

The question is for finance people rather than procurement people. I understand that SMEs are having difficulties with banks. Cash flow is essential to small businesses, whether they have work or are tendering for it. Therefore, I think that the answers lie with the finance people rather than with my profession.

**Mr McNarry:**

Some companies in my constituency are experiencing cash flow problems, some of which are caused by the inability of the Government to pay them on time. From the procurement position, two things are happening; one is that there is a reluctance to tender, because the company may not be able to finance the work even though it has had a perfect record in the past; or the greater risk is that the company submits a tender and is successful, and the squeeze is put on it through the financial pressures that inhibit delivery.

Another aspect is that gossip is very cheap in a small place such as Northern Ireland. I have no evidence for this, but I suspect that people in procurement positions are picking up on that gossip, and that that can therefore endanger the prospects of a company getting work. That is the greater picture, and it is why I wonder whether procurement people could have a wider look and understanding of the difficulties. There is value in knowing whether something is being tendered for and is not being delivered because of money. Money should not be an obstacle.

**Dr Davies:**

The straightforward response to your first point about payment is that public-sector organisations should pay promptly. Every contract contains terms about when payment will be made, and those should be adhered to. In the current economic situation, public-sector procurement people have been asked to include different payment terms. In Birmingham, I was asked recently to include payment terms of 14 days or even seven days, rather than 28 days. It is possible to do that.

**Mr McNarry:**

We are trying to specify a period of 10 days.

**Dr Davies:**

Ten days is a tough target for the payment systems to meet, but it is doable. That is the sort of thing that helps SMEs; they can ask for that timescale, and public-sector buyers can organise it with public-sector payment colleagues. It is feasible. However, it can be difficult; the systems have to be very slick. It would not be a problem as long as it is part of the original contractual agreement, or it can be negotiated post hoc, normally in exchange for something, otherwise our Treasury colleagues may become concerned that we are offering public money for nothing.

Your point about gossip is quite different. That is one area where the example of the three

arrows representing the three aspects of the procurement process point in different directions. If, as a procurement professional in the public-sector, I were to award a significant contract to a company that went under shortly afterwards, I would be called before a Committee like this one, to be told off pretty severely.

Obviously, one would not want to do that, because it wastes taxpayers' money; but equally, one does not want to put companies out of business by refusing to consider them. It is a difficult balancing act, and I do not want to second-guess my colleagues in Northern Ireland who have that difficult job. I have done it elsewhere, and I can assure you that members of CIPS do their best to think of all the possible ways of dealing with a problem. But it is not an easy job.

**Mr O'Loan:**

I want to ask about the connections between central and local government. As you know, local government here is different; it has fewer functions and, it will be changing significantly in the immediate future. What is the relationship between central and local government in England with respect to public procurement policy, and what can you say about efficiencies with respect to collaboration?

**Dr Davies:**

How long have you got?

**Mr O'Loan:**

Not very long; we are looking for the short answer.

**Dr Davies:**

First, in England, with which I am familiar, central and local government have different political leaderships. Many local authorities are conservative controlled, and central government is Labour controlled, so central government is limited in the number of edicts that it can send out. I am sure that you are familiar with that situation here.

In central government, the OGC sets policy, and Government Departments follow it. Setting policy is a consultative process; it is not a fiat from the top. However, once policy has been set, Government Departments are expected to follow it, and the OGC, with the assistance of others, produces procurement capacity reviews of all Government Departments that, basically, say how

they are doing. The feedback from those reviews is taken very seriously.

**Mr O’Loan:**

How does that affect local government?

**Dr Davies:**

It does not affect local government. I am not saying that local government sets its own rules, but there is legislation about what local government can and cannot do. In addition, there have been a number of reports, such as the Byatt report, which is historical and has been completely implemented in most authorities. Local government sets its own requirements within the overall framework of local government legislation.

Each authority takes a slightly different view on procurement, but, again, we must not forget the EU public procurement regulations, which sit over everything. Although the thresholds for public advertising are different for local and central government, the EU rules apply to everybody. For example, one will find different views on how authorities write specifications for environmentally-friendly procurement.

In addition, some authorities club together. For example, Mid Sussex District Council shares its procurement lead with a neighbouring district authority. Similarly, Worthing Borough Council and Adur District Council share procurement and other functions.

**Mr McLaughlin:**

In your submission, you draw attention to the Government’s ‘CompeteFor’ website, which matches companies with supply opportunities connected with the London Olympics. You also referred to the Sellafield Ltd approach to a supplier ombudsman, which is an interesting idea. I presume that Sellafield Ltd is a private-sector company?

**Dr Davies:**

Sellafield Ltd?

**Mr McLaughlin:**

In your submission, under the heading “Collaboration”, you describe its role. After a review by the company on rationalising its suppliers, presumably in its own interests as perhaps there were a

number of suppliers with specialist skills that the company wanted to retain, it seems to have taken the initiative in encouraging those people to collaborate to be able to compete.

I am interested in that idea. As I read it, that was a private-sector initiative, but is there any reason why the public sector could not follow through on that? For example, the CPD could take the same approach to proactively encourage SMEs to compete.

**Dr Davies:**

Do you mean to collaborate in competition?

**Mr McLaughlin:**

Absolutely.

**Dr Davies:**

It is always open to procuring organisations to present a procurement opportunity in a way that suits the local market. I must admit, my experience has been mostly of going to a first-tier supplier and encouraging it to engage with SMEs. However, collaboration between SMEs to bid for something as a consortium is perfectly feasible.

**Mr McLaughlin:**

More than 90% of our economy consists of companies that fall within the definition of SMEs. That is a very significant sector, and I think that that strongly supports the argument for a regional strategy which takes that into account. That may not apply to other regions in the European Union. Is there anything in EU legislation, or any other legislation, to prevent procurement authorities here from appointing such a person?

**Dr Davies:**

You have made an important point about the number of SMEs. As part of my homework, I have been reading 'Accelerating the SME economic engine: through transparent, simple and strategic procurement'. It was a report that was made to Westminster in November 2008, and I assume that you have seen it. Apparently, across the UK, it is the norm that well over 90% of companies are SMEs. I agree that every region has its own unique issues, but I am not sure that is a unique issue.

You may need legal advice as to whether someone could be appointed. If I were running a

tender, and I got to know the market, I might decide that big company A could do this, or, that little companies C, D and E could get together and do it. I might write the invitation to tender in such a way that made that opinion evident. Therefore, if companies C, D and E wished to talk to each other, there would be an understanding that a consortium bid would be welcome. It could be written into an invitation to tender that one is interested in consortia bids.

**Mr McLaughlin:**

I think that we have taken that step. The question is whether that is effectively encouraging SMEs to collaborate. Experience has created a considerable chill factor, and SMEs see it as a waste of time because the system is biased and very difficult to satisfy. Declan addressed that problem in his question earlier.

We have a situation in which, as a result of difficulties in the past, there may be missed opportunities for local companies. I think that the system is prepared to address those difficulties if we can find the ways and means. If we have to follow that up with research and legal advice, that is what we will do. You are not in a position, through your own experience or expertise, to advise the Committee on this?

**Dr Davies:**

No; the Committee needs legal advice on whether those ways and means would form some kind of state aid, but I am not an expert on that.

**Mr McLaughlin:**

Your submission also addresses the question of publicising tender opportunities that fall under the EU thresholds. The Committee is particularly interested in that issue. Your submission states that public-sector organisations “should”, which could be translated as “must”, publish notices of such opportunities. What is the requirement on public bodies to publicise such opportunities?

**Dr Davies:**

That depends on the public body. Below the EU thresholds, each public body has its own rules. I can tell the Committee about Birmingham City Council’s rules, but I am no longer in a position to outline the rules that apply in Brighton.

**Mr McLaughlin:**

I have just returned from Brighton, but I did not pick up any of that kind of information.

**Dr Davies:**

The information can be found on the website. Most large local authorities display the rules on their websites. An SME, therefore, knows that contracts over £10,000, £20,000 or £50,000 are supposed to be there. However, in most local authorities, that level of procurement is dispersed throughout the organisation, and it is difficult to get everyone to follow the rules. Every local authority has rules and, to a significant extent, follows them.

**Mr McLaughlin:**

The position here is that a legislative Assembly presides over the economy and, I suppose, a constituency that equates to some of the local authorities that you described. We are trying to determine, through our investigations, whether we have explored all the available opportunities of flexibility and wriggle room.

**Dr Davies:**

The Assembly's constituency is a bit larger than the local authorities that I described, even Birmingham.

**Mr McLaughlin:**

Our population is just over £1.5 million.

I want to pursue the issue of flexibility: is there a case for splitting the larger contracts, or framework approach, into smaller lots to ensure that they remain below the European tendering thresholds?

**Dr Davies:**

To do that deliberately, in the way in which you describe, would be in contravention of the rules. I advise against that, because it would simply lead to litigation.

At times, when one considers the three drivers for public procurement, one might feel that one will get better value for money by splitting a contract in two: for example, separating grounds maintenance from tree work may allow for a better arrangement and one might benefit from

better expertise. If one were to take that decision, and both contracts fell below the EU threshold, that would be fair enough. However, if one were to decide to split a contract specifically in order to ensure that the two resultant contracts would fall below the EU threshold, then that would lead to a great deal of litigation and unpleasantness, so I recommend not doing that.

**Mr McLaughlin:**

I appreciate the dangers that you describe in proceeding on the basis of attempting to disaggregate or dismantle existing frameworks. However, if we were to adopt an approach of setting out a suite of contracts that would deliver the same end product, would we face the same jeopardy? Does European, or any other, legislation require us to take the framework approach?

**Dr Davies:**

Legislation does not require you to take the framework approach, but please ask a legal adviser to second-guess this piece of evidence. My understanding is that you do not have to take a framework approach. However, in considering how to undertake procurement throughout the year, or over a series of years, you must bear in mind the total amount that you will spend in a particular area of endeavour.

In Birmingham, for example, millions of pounds worth of grounds maintenance work was required. We did not want it all to be taken forward in one contract, so the tendering approach resulted in several bidders winning aspects of the work. However, because the total value of the grounds maintenance work was well over the EU threshold, we were obliged, and were happy, to follow the full EU route. In order to stay on the right side of the law, it is essential that one considers all of the work in an area over the lifetime of a contract. That does not mean that there has to be one big contract. There could be many small contracts, but they would have to be advertised in the Official Journal of the European Union (OJEU).

**Mr McLaughlin:**

Is there a threshold under which there is no requirement to advertise in the European journal? I wonder how practical that is. My information is that the threshold is €130,000, which, as regards public work, is quite a small amount of money. Are you aware of the detail? Is that an accurate sum?



**Dr Davies:**

I will have to check. The threshold that I recall is £139,000, but it is much bigger for works.

**Mr McLaughlin:**

It is still small.

**Dr Davies:**

It is of that order. It is much bigger for works, so the threshold for goods and services is, I think, about £139,000. That is the local authority threshold, but the central government threshold is lower.

**Mr McLaughlin:**

My understanding is that the local government threshold is €200,000, which is not far away from what you are suggesting.

**Dr Davies:**

Yes, it is set every two years, on 1 January.

**Mr McLaughlin:**

We also understand that European procurement legislation permits a 20% local placement allowance, which means that 20% of any contract can be exempt from the European tendering process. In effect, it is ring-fenced for local expenditure. Do you have any experience or knowledge of that?

**Dr Davies:**

No. I am sorry.

**Mr McLaughlin:**

That indicates that you are not aware of that practice being applied in England, for example?

**Dr Davies:**

No, I am not. If I may, I will leave that issue for another witness.

**Mr McLaughlin:**

That is fine; I am just exploring your own experience. You have been very helpful to the Committee. I am finished, but I would make a particular note of the issues. There is the idea of having an ombudsman whose job description would be to encourage the SMEs to cluster and effectively position themselves to win contracts. That does not necessarily mean the second tier, but they could help one another if they developed sufficient critical mass.

We have been told that the matter of the 20% local placement is common practice across Europe, but we do not seem to be using it. I am concerned that the orthodoxy is that members of the European Union must advertise work throughout the wider European community. Sometimes, I think that that disadvantages local indigenous enterprises.

**Mr McQuillan:**

Your submission states that the ‘supply2.gov’ website should be used more frequently, and should speed up the process and make it simpler. Is that not happening already?

**Dr Davies:**

The ‘supply2.gov’ website exists, but it is up to public-sector organisations, local authorities, the NHS and small businesses to use it. My recent experiences suggest that it is not being used as much as it could be by public-sector organisations. I know that the procurement directorate here has a portal; I do not whether that has been set up yet, but it is certainly on the horizon. It may be that that is an alternative. I also understand that there is also an inter-Ireland trade portal, and that will be a useful alternative, but supply2.gov is useful and could be used more.

**Mr McQuillan:**

In your submission, you state that:

“BERR have recently launched a ‘Solutions for Business’ which is a streamlined portfolio of publicly-funded business support products”.

Will you explain more about ‘Solutions for Business’? Is there anything similar here?

**Dr Davies:**

I think that it is best if I say that I do not know whether there are similar initiatives here.

**Mr McQuillan:**

What approaches have been taken in England to maximise the social value from public procurement? To what extent have social clauses been used to effectively enforce procurement?

**Dr Davies:**

They have been used quite a lot, but I am aware of issues concerning them. I was in receipt of lobbying from companies in the west Midlands, which told me that the requirement upon them to engage long-term unemployed people or set up apprenticeships was leading them to lose good, experienced staff. Therefore it was a double-edged sword. Following that lobbying, I am unsure about the usefulness of those clauses, because it seems as though companies are not doing much good if they are taking a person who has been long-term unemployed off the unemployment register and, in exchange, taking someone who is long-term employed out of employment. However, the social clauses are there.

I suspect that the Committee will be particularly interested to know that SMEs are the organisations which dislike social clauses the most. They talk about bureaucracy and red tape, but when you sit down with them and analyse what they mean, they will tell you that social clauses, which are closest to the hearts of politicians and the people at the top of the organisation, are the red tape. Many SMEs are more used to dealing with the private sector and with not having to observe social clauses, such as equal opportunity and environmental clauses, for instance. It is an interesting dilemma.

**Mr McQuillan:**

Is there any training available to help small businesses come to terms with that? Social clauses are important, perhaps more so here than on the mainland.

**Dr Davies:**

Training is useful. The report, 'Accelerating the SME economic engine: through transparent, simple and strategic procurement', which was published in November 2008, found that SMEs were unwilling to be trained and unwilling to pay £49 for an electronic course that the OGC made available. SMEs did not think that it was worth the money or the time. If we can find ways of encouraging them to learn about public-sector procurement, there will be some hope of bridging the gap.

The misunderstandings are not all on one side. It is not only a case of the public-sector procurement people not understanding the SMEs; SMEs do not always understand the three-way push of public-sector procurement and the need for regulatory, transparency and public-policy rules, though I am sure that some of them do. Training, or, at the very least, conversation, can help with that.

**The Chairperson:**

Adrian said that social clauses are important here. I accept your comments about the hesitancy of some SMEs, because if they employ somebody who has been long-term unemployed, they are, perhaps, making someone else unemployed. However, there are pockets of disadvantage and need, particularly in the social-economy sector, and those areas could benefit more from social clauses. Local people who experience disadvantage and need could be helped, perhaps through employment opportunities, if social clauses were included in procurement practice. I believe that Adrian has highlighted an important issue.

**Mr McNarry:**

This evidence session has been very useful and extremely helpful. I will read with interest the exchange between Dr Davies and Adrian when the Hansard report is published, because the issues raised are crucial locally. Does the Committee have a list of the Northern Ireland members of CIPS?

**Dr Davies:**

May I take that question with me? I am sure that such a list can be created: whether I can pass it to the Committee without violating data protection laws is another matter.

**Mr McNarry:**

That is fine. Hopefully, we can twist your arm because you are here on behalf of the institute, and I like to know who I am talking to and who they represent. It would be helpful to know how many people from Northern Ireland belong to the institute for which you are speaking.

**Dr Davies:**

That is fair comment. At the very least, I can find out how many members we have in Northern Ireland. I can —

**Mr McNarry:**

I would like to know not just the number but who they are.

**Dr Davies:**

You want names.

**Mr O'Loan:**

Is the institute's membership made up of individuals or does it include organisations?

**Dr Davies:**

They are individuals, and they must pass some pretty significant exams to obtain full membership. In Northern Ireland, we have a lot of members from the public and private sectors and, I believe, even some in the voluntary sector. In past years, it was alleged that most of our members were drawn from the private sector. However, recently, we have made significant inroads in attracting members from the public sector. Indeed, the OGC is keen that all key positions should be held by members of CIPS, which denotes a certain level of expertise and competence.

**Mr McNarry:**

I am not challenging the assertion that the institute has 50,000 members in 150 countries.

**Dr Davies:**

You are asking how many there are in Northern Ireland.

**Mr McNarry:**

Yes, and who they are. There is a genuine reason for knowing this, which is to see — notwithstanding what you have been doing today — whether contact with one or some of those members might be useful in the Committee's daily work.

**Dr Davies:**

We have a number of members who work in CPD, as one would expect.

**Mr McNarry:**

We are quite used to spooks and all sorts of people in Northern Ireland, but I am told that we are

moving on.

**Mr McLaughlin:**

Some of us are. *[Laughter.]*

**The Chairperson:**

I have another question about the social and economic benefits of public procurement practice. Listening to witnesses to the inquiry and other people outside the inquiry, it almost seems like the focus is on the value-for-money element of procurement and not on the wider social and economic benefits to the local community. What is your view on that?

**Dr Davies:**

Every public-sector organisation has to take its own strategic decisions on that. My profession's job is to inform politicians about the choices, what is legal and not legal, and to set out the financial implications of the various choices. The choice made is based on a political decision.

It is crucial that choices are made at the right point. If a choice is made at the point of specification, it is legal. I have dealt with contracts involving very strong environmental considerations at the point of writing the specification.

Similarly, social specifications can be made at that point. One can have a contract to deliver certain social outcomes; for instance, Sure Start would not have been legally feasible otherwise. It is always possible to put things into the specification.

However, we must be careful not to discriminate across Europe; that is why the long-term unemployed clause comes in. One can write into a specification that the long-term unemployed should be taken on. However, if one says that one wants the long-term unemployed of east Brighton to be taken on, then there would be trouble. When one sets up a project in a place and talks about the long-term unemployed, they do tend to come from that place; they rarely come from elsewhere. However, there is the fundamental principle of non-discrimination.

It is a matter of us, as a profession, setting out the choices for you, as politicians, and then doing what you ask of us, but pointing you in the direction of the legal advisers as to what is and is not going to lead to litigation. Litigation is very expensive: as a profession, we seek to avoid it

where we can, and I am sure that politicians do likewise.

**The Chairperson:**

Thank you, for your presentation. I am sure that Members will agree that it was very thorough.

**Dr Davies:**

Thank you.