



Northern Ireland
Assembly

**COMMITTEE
FOR EDUCATION**

OFFICIAL REPORT
(Hansard)

Procurement Modernisation

29 June 2011

NORTHERN IRELAND ASSEMBLY

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FOR EDUCATION**

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Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Mr Jonathan Craig
Mr Phil Flanagan
Mr Trevor Lunn
Mr Conall McDevitt
Miss Michelle McIlveen

Witnesses:

Ms Caroline Gillian) Department of Education
Dr Suzanne Kingon)
Mr John McGrath)

The Chairperson:

John, Caroline, Suzanne, you are very welcome. Our apologies for reorganising this meeting from last week. I know that the Department is under pressure on many of these things, and we appreciate your taking the time to make a presentation to us. I will hand over to you and then members may ask questions.

Mr John McGrath (Department of Education):

I will make some opening remarks on procurement modernisation and then see what the Committee wants to probe.

I welcome the opportunity to talk about procurement. I am aware that, last week, the Committee was considering its own research paper on procurement issues. In our view, procurement in the education sector needs to be modernised. At present, it is carried out by a wide range of bodies, which reflects our complex system, with several administrative bodies and various school sectors. Just as the administrative structures are, in some cases, disconnected and duplicative, so too are the similar bodies engaged in procurement. That means that there is scope for inconsistency and variation in practice. Moreover, the relatively small size of some organisations' spending limits the economies that could be achieved in procurement.

Fragmentation and variation of practice are not unusual in the public sector. A recent review of education capital procurement in England found wide variation in the procurement models used to deliver capital investment projects and emphasised the need for a less fragmented, more streamlined approach to procurement. As the Chairperson is aware, the intention of the review of public administration in education and the establishment of the Education and Skills Authority (ESA) was to reform the fragmented administrative structures and, among many other benefits, deliver a more streamlined approach to procurement. It was envisaged that the ESA would be the single contracting authority for numerous goods and services and capital procurement. That structural reform would help us to develop a common, unified approach to procurement capable of delivering best value and increasing value for money and savings through aggregated demand, standardisation and the rationalisation of requirements.

Members will be aware that the Executive have set a public procurement policy that is overseen by the procurement board chaired by the Minister of Finance and Personnel. The permanent secretary of the Department sits on that board. A fundamental component of the public procurement policy is that procurement in the public sector be carried out through centres of procurement expertise (COPEs) accredited by the Central Procurement Directorate (CPD) of DFP, which is a COPE.

The five education and library boards collectively had accreditation for goods and services procurement but not for infrastructure and capital spend or maintenance. In expectation of the ESA, a decision was taken several years ago that ELBs' limited accreditation would not

necessarily be refreshed or revisited.

The delay in establishing the ESA has resulted in the education sector, which has a procurement spend of hundreds of millions of pounds per annum, having limited, dated accreditation. That has been commented upon several times by the procurement board, and, as a result, the previous Minister determined that measures should be taken to establish accredited COPE arrangements for the education sector, with a view that such arrangements would eventually migrate to ESA, once it had been established.

A small unit has been established in the Department, headed by Caroline and involving Suzanne, to take forward that work. The unit has also taken over responsibility for the work flowing, initially from the procurement-related inquiries in the South Eastern Board and the North Eastern Board and the subsequent health check reviews of the four boards other than the South Eastern Board. The outcome of those reviews has been shared with the Committee.

The reviews highlighted a significant number of issues in the establishment and management of contracts, and those issues need resolution. The reviews, along with a challenging budget position for education, have brought the need for the reform of procurement arrangements into even sharper focus.

The Department has taken steps to ensure that the recommendations of each review are addressed immediately. The Minister has considered and approved the action plan of the South Eastern Board and has instructed the Western Board and the North Eastern Board to submit plans immediately to address the review recommendations. In all three cases, an independent procurement expert will review each board's progress and the implementation of its plan in December 2011.

Those steps should ensure that, for the time being, procurement in the education and library boards is managed effectively and efficiently. However, as the reports make clear, there is a limit to how far procurement can be modernised and professionalised to get economies of scale in the current administrative structure.

We will be taking forward work to develop COPE arrangements with a view to having detailed proposals by March 2012. In our view, the real savings and modernisation will come when we eventually move to the Education and Skills and Authority.

The Chairperson:

This has been an issue in education for many years. I suppose that the establishment of COPEs was recognition that there was an issue with procurement. The Department should be given 10 out of 10 for persistence: referring to a body that does not exist and looking towards the day when it will exist despite being told repeatedly in political institutions that it will not exist in its proposed form. We will not open the debate on the ESA today.

In the early part of this year, the Department made a strategic decision. I was aghast when I saw the restructured management diagram, which told us that we now have only one deputy permanent secretary — yourself.

There was the establishment of a directorate of procurement modernisation. That was against the backdrop of what was stated repeatedly in papers that we had over past years about the establishment of the ESA, which would have the responsibility of procurement. Why has the Department taken so long to deal with this issue when it knew that there has been a problem for many years?

I have serious reservations about critical comments by the previous Minister about investigations of education and library boards. I am happy, and I have no doubt that the Committee will be happy, to release the research paper to the Department and have it put on our website. That paper was a result of work by the Assembly's Research and Information Service and is about procurement in education. It states that there was inadequate evidence of fraud to pursue prosecutions in the Belfast Education and Library Board; no fraudulent motive was identified in the North Eastern Education and Library Board; and no evidence of fraud was found in the South Eastern Education and Library Board.

I am worried that that was an attempt to stigmatise the boards. There were issues around procedures and value for money and evidence of issues about procurement. However, I am aware

of no evidence leading to legal proceedings, although I stand to be corrected. I want to return to an issue about one of those boards concerning the culpability of the Department.

Mr McGrath:

I will take the first issue. As I said in my opening remarks, the accreditation arrangements around a COPE for education have been deficient for some time. There was no accreditation at all in infrastructure, collective accreditation of boards had dated, and other organisations in the education sector did not have accreditation and could either go through boards without formal arrangements or to the Central Procurement Directorate. It is deficient; it is a mishmash.

There was a view that the establishment date for the ESA would be the best thing to focus on, as it would create the vehicle to address those issues. Therefore, work was not taken in hand either to update accreditation for the procurement of goods and services or to acquire accreditation to procure infrastructure. With hindsight, that was not the wisest decision.

On the second issue, I am not clear what critical remarks of the previous Minister's you mean. The inquiries into procurement started off with a matter of suspected fraud in the South Eastern Board; it is now in the hands of the PSNI. That triggered wider issues. The views in that board, and initially in the North Eastern Board, around Magherafelt High School were about ensuring that procurement practices were consistent with procurement policy and demonstrated value for money. They did not focus on fraud per se as their *raison d'être*.

The subsequent review of maintenance contracts in the South Eastern Board made it clear that there were weaknesses in governance that could have left them open to fraud. There was no evidence of fraud, but they were open to it, which is a damning indictment. Weaknesses in procurement can be serious without necessarily ending up in fraud.

I defer to you if there were critical remarks suggesting widespread fraud. However, if an internal report says that, in at least one case, the operation of a contract leaves it open to fraud, that is a serious issue.

The Chairperson:

The Magherafelt issue in the North Eastern Education and Library Board is well documented. In fact, the Browne report of 2010 drew attention to the shortage of appropriate skills and high vacancy rates at the board and to a need for more formal communication arrangements on capital planning and approval between the board and the Department. I have been concerned for some time that there has been a hiatus in the Department and in other places to get the ESA. That is all we have heard for some years, and there is a political element to it. Aligned to that, attention was conveniently drawn to some boards around issues that somehow the fault lay with the boards. In all those cases, it was said that all the Department does is produce a policy and provide money and that it is the responsibility of everybody else, and all the failures and faults and everything that is wrong with the education system are because it is so fragmented. It was said that we do not have control, and it was building up a head of steam and the only saviour or messiah that was ever going to be the deliverer of education was the establishment of this wonderful new organisation. However, while all that was being said and done, the Department was trying to wash its hands of its responsibility by not communicating in a way that was meaningful and helpful to the boards to try to resolve some of those problems. I do not see anything that the Department has done to avoid those problems happening again, other than saying that it will be a wonderful new world when the ESA arrives.

Mr McGrath:

I beg to differ.

The Chairperson:

What is the evidence to convince me that that is not the case?

Mr McGrath:

The Department is responsible for ensuring that proper procedures apply in the education system. Last year, some months before the issues arose, we wrote to every organisation asking for assurances that procurement procedures were being fully implemented, and we were told categorically by all organisations that they were. We then had issues in the South Eastern Board that were real and meaningful. Frankly, it would have been irresponsible of the Department not to take the action that we did. It started off with a fraud issue and an incident, broadened into

concerns about a significant maintenance contract, and then into internal governance issues in the board. The health check produced by seasoned professionals was significantly critical of the board, and it is now working through a sizeable action plan to address the issues, and we are working closely with it.

In the North Eastern Board, the issue was triggered by deficiencies in the application of procurement controls. The Browne report rightly identifies faults in the Department and in its control mechanisms with the board, which we are seeking to put right. That was acknowledged in the Browne report and in the Minister's statement. Our job was to oversee the system, and we adopt a rigorous approach to it. We hold quarterly accountability meetings with each of our bodies, particularly the main ones; the Minister chaired the latest round of meetings. There are rules and procedures to which public bodies have a responsibility to stick. They have accounting officers whose job it is to do that, and if there are deficiencies in how they do that, they are responsible.

The Chairperson:

Let me make it clear: possible fraudulent action by a board or organisation should be dealt with rigorously and appropriately. You almost get the impression that, to date, the Department's only sanction in dealing with this has been to write to boards seeking assurances that everything that they have done is appropriate and above board; but beyond that nothing is done. You tell us that the Department criticised the Browne report and took some action. Exactly what action? What has been put in place by the Department in response?

Mr McGrath:

The Minister's statement acknowledged that the Browne report flagged up that the Department was not wholly without fault, and we have been reviewing our procedures internally. We set arrangements in place specifically to have more explicit dialogue with each organisation so that there is a full understanding of the expectations. That has involved a round of quarterly meetings between the Department and each board at which they run over their capital requirements, controls and where they are. There is much more specificity and codification of what is required, and we will look at the approach to capital improvements. We acknowledge that some of our procedures on capital need to be modernised.

Mr Craig:

We need to be honest. Rightly or wrongly, over the past four years there was a campaign to run the boards down in the aspiration that they would disappear. What impact did that have on boards' internal controls? Is the Department of Education satisfied that there is adequate audit capacity in each board to pick up on procurement issues?

Mr McGrath:

You will expect me to disagree that there was a campaign to run down the boards. There is no such campaign.

The Chairperson:

Having a vacancy control policy since 2006 has not been to help them.

Mr McGrath:

The vacancy control policy flows from the principles of the Public Service Commission and the across-the-spectrum intention, at the time, to have an Education and Skills Authority. You are right: the prolonged nature of vacancy control has had a debilitating effect.

The Chairperson:

Since 2006, and that was identified in the Browne report.

Mr McGrath:

That is not a campaign to run them down.

Mr Craig:

No; it is a deliberate policy.

Mr McGrath:

It is neither a campaign nor a deliberate policy; it is an unintended consequence of the original aim in applying vacancy control, and, yes, there are issues in each organisation. The vacancy control impact has been recognised as such in various health checks. However, that does not take

away from the responsibility of organisations and their accounting officers to ensure good governance. Serious issues were flagged up.

This is public money and it is about public confidence. Regardless of what happens to it in future, any public body must ensure good governance. We now get quarterly assurance statements from each body across a range of good-governance issues, and we expect them to probe how they are doing. If they have risks, we expect them to tell us what they are doing to mitigate them. We do not want people to say that everything is tickety-boo when it is not. If there are staff shortage issues in some areas, we expect organisations to flag them up and tell us what they are doing to mitigate that situation. We now run a rigorous risk-management quarterly assurance regime with which we expect boards to comply. We do not expect them to say that everything is tickety-boo, but we do expect accounting officers who say that they have a problem with shortage of expertise to tell us what they intend to do about it.

Mr Craig:

I am asking you a serious question here, never mind the politics. Is the Department convinced that there is adequate auditing capacity in all five boards to pick up on procurement issues?

Mr McGrath:

I think that there is: some of the internal audit services picked up issues themselves; the South Eastern Board's did. No system can be 100% sure. As soon as you say that you are 100% sure of anything, you get overconfident. None of us pretends that the system is not under stress through the impact of vacancy control or, in other areas, through people voting with their feet because of the uncertainty about future institutional arrangements. An accountant or a trained professional might decide that they would rather ply their trade in a different sector where they know where their employer will be and that they will be there for the next five or 10 years. There has been a drift away, and that is producing stress. We have heightened our oversight arrangements to give close attention to the matter and to get the boards to do that as well. We attend all the audit committees of each organisation.

Mr Craig:

You raised the matter of significant failings in the boards. Did the internal audit capacity of the

boards pick up those issues and report them to the Department at the time?

Mr McGrath:

In some cases, yes.

Dr Suzanne Kingon (Department of Education):

It was the South Eastern Board's own internal audit that precipitated the inquiry into the board.

Mr Craig:

In other words, the board was functioning properly, it had done its job, it had highlighted the issue to you and had tried to resolve them. Nevertheless, the Department chose to damn it.

Mr McGrath:

No. A properly functioning internal audit service may say that it found serious issues in an organisation; that is a sign that audit is operating. The internal audit drew attention to the issue, but the fact that it occurred in the first place is a serious issue. What will we do to ensure that it does not happen again? The issues in the South Eastern Board were serious. If an internal audit report finds that there was an absence of governance in a contract, one could have no confidence that there was no fraud. You could not find fraud, but you could not sign off that it was immune to fraud. That raises serious issues about an organisation. To be fair, that organisation accepted that those were serious issues that needed to be addressed.

It is unfair to say that the Department is blaming people. As Suzanne said, an internal audit flagged those facts up. Had the Department not responded to them, we would have been accused of being negligent and complacent. In the public context — in this Building and in this room — procurement has been a sensitive political issue where there may be a lack of confidence that weaknesses are being addressed.

The Chairperson:

We need to be very careful that we do not do in education what was done in Northern Ireland Water. We were told that the new arrangements for Northern Ireland Water would deal with its procurement issues. Anybody looking at what happened over the past 24 months would say that

it did not work. If more questions are being asked and more serious issues addressed, we should be very careful about how we deal with procurement in education, and not continually seem to put ourselves into the position where we are being told, “If we had only this one organisation, and if we could only get this dream machine up and running, things would be different.” However, the report on the South Eastern Education and Library Board stated:

“There was an over reliance on staff acting up into more senior roles ... and few individuals have appropriate professional or technical qualifications.”

That came about as the result of a vacancy control policy imposed by the Department since 2006 on the back of a wish, a hope, a desire for the establishment of an organisation that, to date, has not come into existence, but has spent £10 million in the process. You can try to blame politicians. We have said why it is not happening.

However, the reality is that the Department kept on persisting. I could fill this room with the documents that make reference to an organisation that does not exist. Some £10 million was spent, yet some procurement issues still have not been addressed adequately. On the back of all that, in the early part of this year, the Department decided to set up another new directorate to deal with procurement modernisation in the hope that, at some stage, there will still be an ESA. It is an absolute shambles, John.

Mr McGrath:

We are saying that, in the long term, the establishment of ESA will allow us to move to a much more integrated and unified procurement process, with the consequent advantages. That is entirely separate from the need to ensure that the current administrative arrangements operate properly, deliver good governance and protect taxpayers’ money. That is what we have been doing. If ESA were not coming along, we would still need to do something — that is a given.

I will answer the questions about the boards in general. On foot of what happened in the South Eastern Board and the North Eastern Board, we commissioned gateway reviews for four of the boards. You have seen those. Those have come in with varying results, but they have made it clear that, in at least two of the boards, things are as good as they can get in the current circumstances. They make the point that there are economies of scale that we cannot yet reach. That is evidence that we are adopting an even-handed approach and are trying to work with the organisations. At least two of those reports were very complimentary of the organisations involved. That is good news, because they identified, for a couple of others, that things — not

necessarily huge things — need to be done. That is good news as well, and we welcome that. That came from authoritative sources. We are not out to blame anybody, but we have a duty to check that the system is operating and can secure public confidence.

Mr McDevitt:

The March 2011 interim report on the DFP joint efficiency review — the PEDU review — highlights three areas of, frankly, not just poor practice but what seems like counter-intuitive practice. For example, in school transport, it highlights the significant variation in the scale and rise of costs across the five boards, particularly in unit costs for board-run vehicles, and it highlights some “odd” or “unexplained” variations in comparative spending on taxis and the daily allowance. You came to the Committee two weeks ago, John, and reminded us that you still cannot tell us what the cost per mile is.

Mr McGrath:

I did not have that with me, but I probably should have it.

Mr McDevitt:

You have established what the cost per mile is?

Mr McGrath:

It is current —

Mr McDevitt:

You did not know two weeks ago what the cost per mile is.

Mr McGrath:

Yes. I did not have that information.

Mr McDevitt:

So, beyond all the political stuff and beyond the basic administrative stuff around ESA, this is basic financial planning. These are the sort of obvious matrices that anyone with a half-decent qualification in some aspect of finance or business management will look to. However, on, for

example, school transport, PEDU is finding — catering and cleansing services are next on my list — that, frankly, it is a bit of a free-for-all out there at a local level. No one is paying much attention to it.

Mr McGrath:

We made the point to the previous Committee, and I make it again, that in the current system in which there are five organisations, the main boards, and some others, it is not good that, in many cases, each reserves the right to do its own thing in some areas. The variability in approach to, for example, transport or to special needs is not good, does not offer value for money and is not necessarily delivering any sort of uniform service. We have made that point previously. That is one of the problems that we have at the minute. We are pursuing the transport issue, and the PEDU work is at the second stage. We have issues with — we are quite happy to discuss them — why organisations are all doing different things.

Mr McDevitt:

This is not systemic; it is cultural. The chief executive of each board is an accounting officer under the same public finance rules. It is not as though there is one rule in the Western Board, another one in the South Eastern Board, and that they do things differently in Belfast. They all have the same public duty and are accountable in the same manner for public expenditure under their control. Therefore, what is happening? At what point did everyone lose the plot to the extent that you have such diverging cultures that allow some boards to behave in an apparently efficient way and other boards, frankly, to behave in a fundamentally inefficient way, with finance professionals at the heart of that inefficiency? You would think that any self-respecting accountant would want to turn a saving.

Mr McGrath:

I agree with you. It is a cultural issue in the education sector that is far more marked than in other sectors that you or I might be familiar with. Organisations almost make a virtue of doing things differently, rather than the virtue — in school transport, for example — that there is best practice that everyone should adopt, rather than doing their own thing.

A cultural system seems to have grown up over the years in which everyone has their own

individual approach. That is not consistent with best value in a sector that is supposed to work in a fairly uniform and integrated way. I agree that it is difficult to defend PEDU finding wholesale variation of practice and approach in what is, essentially, the same business.

The PEDU second-stage report is drilling down into transport and asking why there are different approaches and contracts. For example, some boards' transport works door to door, and others' works gate to gate. That variability is very hard to explain and justify.

Mr McDevitt:

I will come to catering in a second. Would you go as far as to say that, in school transport, there is evidence of absolute bad practice and mismanagement of public funds by certain boards?

Mr McGrath:

No. I would not go as far as that.

Mr McDevitt:

So it is OK for one board to pay exponentially more than another board for the same service, and that is not the mismanagement of a public fund?

Mr McGrath:

The PEDU work is not finished. However, if it can be demonstrated to an organisation that there is a better way of doing what it is doing and it does not adopt that better way, it is not making the best use of public money.

Mr McDevitt:

Let us talk about catering. The first-stage PEDU report highlights that:

“There are significant, and unexplained, variations in the average cost of providing school meals between Boards”.

Bizarrely — and we are talking about public money — it then identifies diseconomies of scale. To the layman, that basically means that boards with more schools and the opportunity to get better deals through bulk purchasing and greater purchasing power are actually paying more. The boards that have the most purchasing power are getting a worse deal than those that, on paper, have the least purchasing power.

Mr McGrath:

I agree that that is counter-intuitive and raises questions.

Mr McDevitt:

Is that not mismanagement of public funds?

Mr McGrath:

I have to be fair to the boards. In some cases, they may say that the first-stage PEDU report was pitched at a high level, did not understand the differences and that, therefore, further work is needed to substantiate whether those are genuine differences. However, you are right: if the bigger boards are not achieving economies of scale and it is the other way round, that begs questions. We will ask those questions, and it is the sort of issue that we have been flagging up. It is not an ESA-related issue. There should not be such a variation of practice in a system that has five organisations that are largely similar but from different geographical areas. The issues that you have raised, Conall, should not happen.

Mr McDevitt:

I note that the health check reviews are all from this year, so they are pretty contemporaneous. You have carried those out in the five boards. You have also carried out an audit of spending at the CCEA. With the exception of the Belfast Board, in which the health check reports considerable progress, you still acknowledge “procurement deficiencies” in boards such as the North Eastern Board, where there is not a single senior point of accountability in place. You say that, in 2011, a procurement strategy and plan still does not exist. In the South Eastern Board, you still identify significant shortcomings with procurement processes and a shortage of appropriate skills, high vacancy rates, and the lack of appropriate management attention.

Mr McGrath:

That is the reported health check. The board has measures in hand to address that, and we are working closely with the board.

Mr McDevitt:

It is very contemporaneous.

Mr McGrath:

The health checks are all very contemporaneous. We are working closely with the South Eastern Board to address the issues. We are also trying to achieve a commonality of approach towards expertise, so that each board does not come up with its own solution.

Mr McDevitt:

Even in the Southern and Western Boards, where you try to sound optimistic, you say that things look relatively good. However, for example, in the Southern Board, there is an environmental, or we could say that it is a cultural, issue, which appears to impede the achievement of best practice. In the Western Board, you say that procurement is satisfactory, but there are certain key areas that are out of line with best regional practice.

Mr McGrath:

We commission the health checks. There was a common brief. Beyond factually briefing people, the officials were free to use their expertise to come back and offer conclusions. These are those conclusions. The point that I was making to Jonathan is that there is a variation in what they have found. Bluntly, no one was sent out to “get” anyone about this. Where the officials found good practice, they were expected to report it; where they found deficiencies, they were to report those too.

Mr McDevitt:

I support the establishment of ESA. There is a huge argument in favour of it. I understand how a single system could allow for great cultural improvement. However, some of these issues would defy any new system, because they are issues which, despite nearly a decade of scrutiny — and, from reading the papers, I see that this started in 2002 — have managed to remain issues. That suggests to me that there are individuals or groups operating in the education system in the North of Ireland who, for whatever reason, do not seem to think it their job to achieve best value for public money.

Mr McGrath:

You are entitled to claim that and it may well turn out to be the case. I do not argue, because you are coming to a conclusion. Let us park the ESA issue. If you have a public system which has that degree of variation, it needs to be addressed, whether or not ESA is established. I agree with you on that. The creation of ESA alone would not have done it, because you would have inherited those cultural differences. Then you would have been trying to use the single organisation to bring uniformity. However, there are clearly, shall we say, deep-seated approaches to different things that will have to be harmonised.

Mr McDevitt:

The point is that we will receive a final PEDU report. I suspect, from the answers that you have given to my questions on the first-stage PEDU report — and I do not mean to put words in your mouth — that the final report could make even worse reading. Perhaps it will be slightly better reading, but it will not be great. So a basic question arises at departmental level. We have an ESA Bill; let us say that we get it to the Floor of the House. We do our bit as legislators. What specifically will you do, as administrators, to shift the culture?

Mr McGrath:

That is a good question. The management of any new organisation will have a key leadership role in changing behaviour and trying to get people to understand that they are no longer employees of board X, but of a new organisation, and that they will have to work to a common approach. The Department needs to make it clear that it expects a common approach to be taken. In a new organisation, you will not find a difference between what is done in the west, done in the south, or, in some cases, what is done in a rural area, as distinct from what is done in an urban area.

Let me be frank. The administrative structures in education date back 30-plus years. They have largely remained unchanged in that period, while in most of the rest of the public sector, even here, there has been significant change and some degree of constant revolution. Practices, procedures and governance in many cases reflect the times when they were set in place. That, for us, is the 1970s. We need to move 35, 36 or 37 years further on. That is one big change. You will find very few areas of the public sector in Northern Ireland or elsewhere, which are still running things with largely the same administrative governance arrangements that they had 36 or

37 years ago. When the change is made, it will be so much more radical, difficult and even revolutionary.

The Chairperson:

John, are you honestly trying to tell us, and, more worryingly, trying to get us to believe, that none of the rules, regulations and arrangements for the governance of education, which have been put in place over 30 years or more, allow, as Conall has referred to, good accountants to implement better practice? An accounting officer is accountable to the Department.

Let me put it this way: the Department made a decision earlier this year to appoint Caroline as director of procurement modernisation. If I were an accounting officer in a board, in CCMS or in some other organisation, what would I be fearful of? What would cause me to be concerned that the Department has made this strategic organisational shift and has made that appointment, when, for the previous 10 years, the Department did nothing other than ask me, “What are you doing about it?” or “What has been your practice?” It seems to me as though the Department has absolutely no control over any of this. It has been left to fester and we hide behind the mantra that, “It is historical, it is cultural, it is practice and it is procedure”. That is just not acceptable. It is not good enough. It is a contradiction in terms to have accounting officers when they are not being held accountable.

Mr McGrath:

We exercise a fairly rigorous performance management regime. That was not the practice in previous times. There is a bit of a contradiction here. When issues come up, we attempt to deal with them and intervene in a publicly accountable manner, as the Committee and the Assembly would expect. There were issues around the procurement enquiries and investigations. Yet, on the other hand, there is the implication that, somehow, we are blaming organisations because we intervene like that. Either we exercise rigorous governance or we do not. That is what we have been doing increasingly in recent times. However, to be fair, there are cultural issues. The governance arrangements have meant that each organisation sees itself as being very local. There are balances in accountability: is it to the local population or to the Department and the Minister? It is no one’s fault that there is a governance regime, because that is the law; there are nomination rights and there are lots of local representatives, representatives of professions, trustees and

transferors. The model is not as tight and as clear as, for example, the way in which the Housing Executive reports to the Department for Social Development or the way in which health organisations report to the Health Department.

Mr McDevitt:

I know that John is not trying to argue that, somehow or other, there were boards out there for the past 30 years that took the view that they should be paying exponentially more for this or that service because, “We are here and that is the way that we do it down here.” The answer is more likely to be that no benchmarking data was available, that they were never asked to compare their costs with costs elsewhere, that they were operating as independent fiefdoms and that they were not, historically, being held properly accountable by the Department.

Mr McGrath:

That may well have been the case. I am not saying that any organisation wanted to waste money, but there would have been a degree of local pride in doing things in a particular way that adds value to a local community. However, that is not necessarily the best way to run things across the piece.

Mr McDevitt:

I know that, sometimes, it is quite good to provide services from a local point of view. I note that even the first-stage PEDU report finds that, for example, in cleaning services, greater efficiency and productivity is achieved when a school manages those services itself. It is a question of horses for courses. Sometimes, much more bang for your buck can be achieved by cutting a local deal. The point here is that there was a culture of not dealing fundamentally with best practice or, simply, a lack of it. Once that culture grows up, it leads to the emergence of all sorts of subcultures. The lack of accountability or of any degree of scrutiny in the system over an extended period is, frankly, breathtaking. That will not be solved by ESA, as much as I support its establishment. It will require new thinking and a new breed of people to come in, whether they are procuring locally or regionally, in or outside of a COPE, who will be committed to getting the best value for the people whose money they are spending. There is no great degree of evidence that any such attitude exists everywhere today.

The Chairperson:

In a sense, there is, Conall. Even the letter from John Leonard from the Department clearly indicates to us that the Belfast Education and Library Board and the Southern Education and Library Board:

“do not fall far short of best practice in both the establishment and management of contracts, are well run and there are no major issues that need resolution.”

Those are two boards that clearly seem to be able to get it done with no major issues. Therefore, it can be done.

Mr McGrath:

Yes.

The Chairperson:

The issue is: why has it not been done, and why has the Department allowed the situation to go on for the period of time that it has gone on for?

Mr Lunn:

Having listened to the comments, I am worried about the business of whose fault it is in the boards where procurement best practice has not been successfully applied in all cases. Chair, I heard the argument that you and Jonathan put forward that is all down to the assumption that ESA would be established. I thought that we were not going to have a discussion about ESA, but there we are. The argument is that everything will flow from ESA and that the very necessary and sensible introduction of a vacancy-control policy five years ago was actually a cunning plot to run down the boards and was a deliberate policy. Frankly, I regard that as complete nonsense.

I also heard suggestions that the accounting officers for each board are effectively playing fast and loose with the rules or are ignoring the rules. Again, I think that that is nonsense. John, is it not the case that, for the past five years, we have known that the boards are struggling? So many people are acting up, there are very many vacancies, and senior people have left. Is it not a fact that many of the people who have to do the day-to-day procurement do not have the experience to deal with that adequately? It is not a question of ignoring rules but of not having enough experience, and that leads you to think that what Caroline is doing is a very good exercise.

Mr McGrath:

I do not accept that anyone is playing fast and loose with the rules. Vacancy control has an impact, and the health check reports flag up that we do not have enough skilled professional people in procurement. That also must take account of the fact that, over the past 10 years, procurement in general has been professionalised. Years ago, you would not have had the degree of expertise or sophistication in it, so procurement, both public procurement and wider procurement, has become a much more professional and sophisticated operation. We probably have not kept pace with that because, in fact, we have been leaking skills rather than adding to them. That is the evidence that has come out from the health check reports on the organisations' professional approach to procurement by having a strategy and a plan and the skilled professionals to enable it to put those in place. We are some way off the degree of professionalism that we need for public services spending hundreds of millions of pounds a year on procurement.

Mr Lunn:

I hear the comments on ESA and the comments that Conall made. ESA will not necessarily be the silver bullet that solves all of the problems, but surely, in theory, it will consolidate the operation to the extent that you can provide centrally the necessary expertise to rectify what problems there are. I do not see any problems with fraud. You can call it mismanagement, mistakes or lack of experience, but not fraud.

Mr McGrath:

As I said earlier, none of this work was about the notion that there was wholesale widespread fraud, but there is a spectrum. It was about ensuring that public procurement rules are applied properly, that the controls operate properly, that organisations at senior/board level are aware of what they are procuring and that the right approach is taken to, for example, single-tender actions. There is a whole range of issues that need to be dealt with properly, short of fraud occurring. There can be weaknesses in that. Procurement and the work of the procurement board is all about professionalising procurement and taking things up a notch. It may be good, but it can be made better. It is about aggregating up to get to economies of scale and bringing more professionalism and more challenge in supply chains. That professional agenda involves determining where we need to go through COPE, whether that is with ESA or not. That is the drive. The education

procurement arrangements are not as professional or modern as they are in other Northern Ireland public service sectors, and they need to catch up.

Mr Lunn:

Even if ESA never comes over the horizon and we have to work with board structures — on whatever basis — surely a single COPE is still desirable. Even if it goes no further than that, a single COPE to look after the boards' procurements would be invaluable.

Mr McGrath:

With COPE arrangements, goods and services are not the same as infrastructure, so we need to take account of that. Nevertheless, we need to put in place modern arrangements that have the confidence of the public and are in line with public procurement policies laid down by the Assembly and the Executive, regardless of whether ESA exists.

The Chairperson:

One of the gateway reports mentions the strategic partnering agreement (SPA) that is managed by the head of property services and a strategic partnering manager, both of whom are chartered surveyors. The report states that, as a result of the current lack of capital funding, the arrangements are underutilised, and a special purpose vehicle has been created to manage projects under its responsibility. Community benefits and the delivery of future schemes are funded by a ring-fenced contribution. So, professional advice and assistance is and was in place. It is not the case that there never was one or that it was there but decreased because of vacancy control. I am sure that Caroline is aware of the strategic partnering agreement. Is it because there is a lack of capital funding coming from the Budget? But that is where we are now, which was not the case a few years ago, when a considerable amount of money was made available; hence the previous Minister's repeated mantra of how many schools had been built. How did it go so badly wrong?

Mr McGrath:

Nothing has gone wrong. The strategic partnering arrangement in the Belfast Board is unique. It is a partnership between the board and a private sector consortium whereby that consortium, in effect, carries out all capital works and maintenance in the board area. It is a fairly professional organisation that, in recent years, when more funds were available, delivered a significant number

of additional new schools to an impressive standard. I am sure that the Committee has been round some of them, including the two Model schools and Ashfield schools, Orangefield Primary School and, currently under way, Taughmonagh Primary School, all of which are very impressive. It is a delivery vehicle. However, the reduction in resources means that we now have fewer projects to put through that machine. There are some issues with it. It has a basic infrastructure, but, at the minute, not enough demands are being placed on it. As you rightly said, it comes back to the capital issue.

We have a separate issue. Some time ago, the gateway report on the SPA recommended that we benchmark the SPA's costs against traditional procurement methods and normal PPPs to establish whether the SPA model is delivering good value for money. We are taking that piece of work forward.

The Chairperson:

John, we appreciate that, and this is an area that we will undoubtedly come back to at some stage.

Mr McDevitt:

When is the final PEDU report due?

Mr McGrath:

It is due over the summer. We are working on it. We have some issues with whether to extend it to probe not just board transport but the contract that we have with Translink, because half of boards' transport costs involve that contract, so we have to decide whether to scrutinise those arrangements as well.

Mr McDevitt:

When will you decide whether you include that?

Mr McGrath:

We are looking at it now. The issue is whether the performance and efficiency delivery unit (PEDU) will finish and report on the work that it is doing on boards' internal transport and then do a further bit of work or extend the present one. We have not bottomed that out yet with our DFP colleagues. Translink is an important element of the transport bill.

Mr McDevitt:

It would be strange not to include Translink.

Mr McGrath:

If you say that you would find it strange, it is strange. We regard PEDU's work as helpful. It could bring us additional resource in working with Translink, because we are telling Translink that we expect it to deliver some of the savings this year rather than the boards' own transport alone.

The Chairperson:

The implementation timescale that you are looking at is 2011-12.

Mr McGrath:

The timescale for?

The Chairperson:

The timescale for what you have established on procurement and the trajectory that the Department has set out for COPE. You said that it is envisaged that the detailed proposals for COPE will be developed by March 2012 with implementation from April 2012. That is a fair time away, but do those issues not need to be addressed now?

Mr McGrath:

We are addressing them now. COPE will be the vehicle, but we are addressing the issues and looking at PEDU's work. It links to what we discussed last week, the resource allocation plans and the savings targets. All this is current.

The Chairperson:

If the proposals are ready in April, when will they be implemented?

Mr McGrath:

As soon as possible after that.

The Chairperson:

I take it that we will be kept informed on progress. You referred to the capital issue. I apologise if you have to come back to us on this, but before we come to the next item, I want to raise something. In reading the correspondence providing an update from the Department on the 13 major capital projects, I noticed that we still have an ongoing issue in relation to St Columba's Primary School (Straw). Worryingly, I notice that:

“Tenders to this project are on hold pending the outcome of a flood risk assessment for the proposed new site. Subject to this being satisfactory, it is anticipated that construction work will start during summer 2011.”

I stand to be corrected, but, if I remember right, St Columba's was only partially compliant. Somebody must have talked to somebody else.

We have discussed boards' practices and procedures. Here the Department taps somebody on the shoulder and has a wee word in their ear. I always get worried when the Department has conversations with a purpose. Clearly, somebody from the Department had a chat with the managing authority for that school and said, “Well, you are partially compliant, but do you think that you could have this project up and running before the end of the financial year?” They said, “Oh, of course, certainly, no problem.” Right. OK. Tick the box. You are on the list; you are getting your money and you are getting your school. Then, lo and behold, we now discover that there is not only a flooding issue but the site is on a graveyard. There is a serious issue around the location of the school.

I am in no way saying that this is not a legitimate cause and case or that this school has not been able to say that it has a need. However, hundreds of other schools that are ready to go have been left behind because the Department changed the rules or something else happened. How will the Department square the circle? It has not been able to start before the end of the financial year.

Mr McGrath:

The compliance issues, which have been resolved, tended to be around the future intentions of other schools in the area. In other words, were we going in with over-provision? It is a bit of a saga, to be quite frank. When the authority moved to secure the site that had been earmarked, the vendor hiked the price by some 50%, which was a no-go. At that stage it was almost pulling the

plug. An alternative site close by was identified and validated to meet all the requirements, so that delay was dealt with.

It was moving forward to tender in line with the Minister's commitment when a report emerged from the water agency, I think, indicating that a flood-risk assessment should be done on the site. On foot of that warning we had no choice but to pull the plug. It came from left field, and there was no question of going ahead with the project once we had been alerted. As I said, it was something of a saga. We worked very hard to get this, as indicated in the Minister's original announcement; however, circumstances beyond our control intervened twice, and that is why it was stayed at that stage.

The Chairperson:

John, there other schools seeing all of that, which could probably have had the same conversation with a purpose and could probably have complied with the adjustments that needed to be made to shift them from partially compliant to fully compliant. They are now saying of that particular school — again, I make it very clear that it is not because of the school; I would make the same point wherever the school was — “How many chances are they going to have to rectify the situation?” There are other schools that, when the rules were changed by the Department, were basically being told, “We are sorry; you are in among the other 100 or so that are left, and, whenever the Minister decides to announce what the criteria will be later on this year, then we will determine how you move forward with your project”.

Mr McGrath:

There were two issues around what schools went ahead: one was compliance; the other was how far they were planned up. No other planned-up schools could have gone ahead in that timescale. Those issues emerged in the autumn of last year. The first was that the first site was not available, and it was only several months ago that the flood risk emerged. At that stage, no other projects could have been started; they were not worked up far enough.

Dr Kingon:

The project was selected because it was at pre-tender stage, and the original site had all the appropriate planning permission. As John said, the price increased at the last minute — that was

beyond the Department's control — but it was selected very rigorously because it was at pre-tender stage. No other schools at pre-tender stage were not selected.

The Chairperson:

I appreciate your answering those queries. It was not on the agenda; my apologies for that.

Mr McGrath:

Between the two of us we mustered enough information

The Chairperson:

I will not go there.