



OFFICIAL REPORT
AITHISG OIFIGEIL

Education and Skills Committee

Wednesday 21 June 2017

Session 5



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EDUCATION AND SKILLS COMMITTEE

19th Meeting 2017, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Johann Lamont (Glasgow) (Lab)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Ross Greer (West Scotland) (Green)

*Clare Haughey (Rutherglen) (SNP)

*Daniel Johnson (Edinburgh Southern) (Lab)

*Ruth Maguire (Cunninghame South) (SNP)

*Gillian Martin (Aberdeenshire East) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*Liz Smith (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dave Aitken (Local Authority Building Standards Scotland)

Danny Lowe (South Lanarkshire Council)

Shirley-Anne Somerville (Minister for Further Education, Higher Education and Science)

Peter Watton (City of Edinburgh Council)

Allan Whyte (Aberdeenshire Council)

CLERK TO THE COMMITTEE

Roz Thomson

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education and Skills Committee

Wednesday 21 June 2017

[The Convener opened the meeting in private at 09:00]

10:00

Meeting continued in public.

Subordinate Legislation

Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 [Draft]

The Convener (James Dornan): I welcome everyone to the 19th meeting of the Education and Skills Committee in 2017. I remind everyone to turn mobile phones and other devices to silent for the duration of the meeting.

We have considered a draft report for the past hour and we start the public part of the session with item 2. We have a number of pieces of subordinate legislation to consider. We begin with the draft Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017, which are subject to the affirmative procedure. Later in the meeting, we will consider the Requirements for Teachers (Scotland) Amendment Regulations 2017, which cover similar ground, so there may be some discussion on that instrument during this item.

I welcome Shirley-Anne Somerville, Minister for Further Education, Higher Education and Science; and Shirley Anderson, policy officer, and Claire Cullen, solicitor, both from the Scottish Government. I understand that the minister would like to make a short statement.

Shirley-Anne Somerville (Minister for Further Education, Higher Education and Science): Thank you for the opportunity to address the committee in connection with the proposed introduction of the requirement that all teachers in independent schools must be registered with the General Teaching Council for Scotland.

Members will be aware that it is our intention, as the convener said, to introduce legislation requiring that all teachers in grant-aided school are GTCS registered, which is why we have an amendment to the Requirements for Teachers (Scotland) Regulations 2005, which you will consider as a negative Scottish statutory instrument under item 4.

A priority for the Scottish Government is to improve the life chances and education of all children in Scotland. High-quality teaching and strong leadership are key features of a successful education system. By introducing a requirement for all teachers working in independent and grant-aided schools to be GTCS registered, they will be brought into line with local authority schools as a means to improve the standard of teaching across the whole of the education sector. That will offer assurance to parents that, irrespective of where their children are educated, the standards and quality of teaching staff are regulated by the GTCS. The requirement will provide schools with assurances of the standard and quality of the teachers whom they employ. It will benefit teachers through professional update, the aim of which is to support, maintain and enhance continued professionalism through professional learning.

Section 98A(5) of part 5 of the Education (Scotland) Act 1980 sets out the circumstances in which

“Scottish Ministers shall not be satisfied”

in their consideration of an application to register an independent school. That includes that any teacher or proposed teacher is not “a proper person” if they are, by virtue of part 5, disqualified from being a teacher, disqualified from working with children or a prescribed person.

Section 98A(6) of the 1980 act provides for the Scottish ministers to make regulations prescribing what “a proper person” should be. There is currently no requirement for teachers in independent schools to be GTCS registered, although that has been encouraged by both the GTCS and the Scottish Council of Independent Schools as an alternative to introducing regulations under section 98A(6) of the 1980 act. That section was inserted into the 1980 act by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004, with the policy intention of introducing compulsory GTCS registration for all teachers in independent schools; that provision was commenced on 31 December 2005. The provision in the 1980 act did not include a power to allow transitional arrangements when making regulations under section 98A(6), so an amendment was brought forward through section 26 of the Education (Scotland) Act 2016. That provision was commenced on 1 January 2017 and, in essence, provided the mechanism by which we could ensure that existing non-GTCS-registered teachers working in independent schools would remain in post.

It was clear from early discussions with stakeholders that there were concerns about how the proposals would affect non-registered teachers

working in independent schools. We have listened to those views and extended the proposed transition period in the regulations from our initial two-year period to three years. We believe that that is sufficient, given the progress that has been made by the GTCS in identifying alternative routes to registration, including the introduction of provisional and conditional registration.

Individuals who achieve provisional or conditional registration would meet the proposed criteria in the draft regulations to be registered. I am aware that there are some reservations about some existing teachers achieving registration; we will continue to support the sector and the GTCS in moving forward on that.

The committee will wish to note that transitional arrangements are not required for existing teachers in grant-aided schools, as the normal practice for those schools has been to employ only GTCS-registered teachers.

The draft regulations that are in front of the committee have therefore been drafted to define a prescribed person as

“any person who is not a registered teacher”.

A registered teacher is

“a teacher whose particulars are recorded in the register maintained by the General Teaching Council for Scotland”.

The regulations have also been drafted to indicate that, from 1 October 2017, any teacher who is employed by an independent school must not be a prescribed person; to provide a transitional period of three years until 1 October 2020 for registration to be achieved by current teachers working in schools at the point that the regulations come into force; and to set out arrangements for

“consideration of an application to register an independent school”

that has been submitted to the Scottish ministers before 1 October 2017 but where the decision has not been determined.

A period of six months until 1 April 2018 has been provided for an application to be considered and, if the registration is granted, any teacher or proposed teacher on the application form who is not GTCS registered will be given three years from the date of registration of the school to meet the GTCS standards.

I move the motion—

The Convener: I think that you are jumping the gun there, minister, but thank you very much for your statement.

This item is intended for questions of clarification. Both the minister and officials can answer questions under this item. I will ask the

first question, on the transitional period of three years for individuals employed in independent schools before October this year. What is the rationale for the length of the transitional period and is it enough time for individuals from across the independent sector to meet requirements? I know that you referred to that issue in your opening statement.

Shirley-Anne Somerville: During the consultation process we listened to some of the concerns in the sector about the length of that transitional period, which is why it has moved from two to three years. That will allow due time for every teacher to be able to receive the support from their school to become registered. I think that that shows that we have listened to the concerns in the sector and made sufficient changes in the regulations.

The Convener: Thank you.

Liz Smith (Mid Scotland and Fife) (Con): I declare an interest as a member of the GTCS. This is a welcome move because it has considerable importance in improving professionalism right across the board. I have two questions. First, can you confirm that the regulations have no effect on the impending changes to the GTCS?

Shirley-Anne Somerville: They do not have any such effect. The governance review will continue, but this process is in many ways separate to that. The policy proposal and the policy purpose behind it will absolutely continue with the new arrangements in place.

Liz Smith: So any successor body would have—

Shirley-Anne Somerville: Absolutely.

Liz Smith: My second question relates more to the potential cost of retraining. I refer in particular to special independent schools that look after some of our most vulnerable children and therefore have additional costs that relate to that support. Does the Government expect that those costs will fall on those independent schools?

Shirley-Anne Somerville: I appreciate that there are some concerns about the financial impact on some schools. The first thing to bear in mind is that schools have been aware of this issue for some time, so I would expect them to have plans in place and to be aware that this is something that has been in train. However, it is something that individual schools will have to look at. The GTCS has been very supportive of the sector. It has attempted to work with it, for example on timelines and different routes to registration, and it will continue to do that. However, it is for the schools to move forward with the provisions for the teachers who are involved.

Liz Smith: What would the process be? Small independent special schools sometimes find it very difficult to get staff. If such a school was in difficulty in the three-year period, what would you expect it to do to make an appeal?

Shirley-Anne Somerville: There is on-going dialogue with the GTCS, which has been very supportive, as I said, and we expect that to continue. There is a working group to ensure that the dialogue continues; it does not stop just because the regulations have come to Parliament today. It will work with the sector to ensure that all the steps are taken so that there are no difficulties for individual teachers.

When it comes to registration, the decisions are—quite rightly—for the independent GTCS and not for ministers. However, ministers will work collaboratively with the sector and support it through working groups so that, as individual issues come to the fore, they are worked through. We expect no school to be in any difficulty by the end of the transitional arrangements.

Liz Smith: That is helpful. I raised the issue because of a small special school in my area. As you know, the Government's intention is that level 9 is a requirement for those who support youngsters in special schools. There is a considerable cost to that, not just for new teachers but for retraining existing staff, and I ask the Government to be aware that that can be very considerable for some small special schools.

Shirley-Anne Somerville: I certainly take that on board and I expect Scottish Government officials and the GTCS to continue to work with the sector. There are some very specific issues that individual schools have concerns about, and I stress to Liz Smith that the work is on-going and that discussions are still taking place through working groups in a supportive manner to ensure that the individual aspects that need to be picked up are recognised. The GTCS has been working with the sector to provide a number of categories for registration that deal with many individual concerns but, as there are still some concerns out there, the supportive work with the sector will continue.

Liz Smith: I note that I have had correspondence with Mark McDonald on that matter in relation to a submission that was given to me by the school.

The Convener: Thank you. As there are no further comments, that concludes the evidence session on the Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017.

Item 3 is the formal debate on motion S5M-06113, in the name of Shirley-Anne Somerville. I remind everyone that officials are not permitted to

contribute to the formal debate and I invite the minister to move the motion.

Motion moved,

That the Education and Skills Committee recommends that the Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 [draft] be approved.—
[Shirley-Anne Somerville]

Motion agreed to.

The Convener: The committee must report to Parliament on the instrument. Are members content for me, as convener, to sign off on the report?

Members indicated agreement.

The Convener: I thank the minister and her officials for their attendance.

10:13

Meeting suspended.

10:16

On resuming—

Education Authority Annual Plan Planning Period (Scotland) Regulations 2017 (SSI 2017/165)

Requirements for Teachers (Scotland) Amendment Regulations 2017 (SSI 2017/170)

Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2017 (SSI 2017/171)

The Convener: The next item of business is consideration of three negative instruments, which are listed on the agenda. Do members have any comments on those instruments?

Members: No.

The Convener: In that case, we will move on.

School Infrastructure

10:16

The Convener: The next item is the committee's second evidence session in its inquiry into school infrastructure. The inquiry is focusing on the lessons to be learned from the incident at Oxfangs primary school in January 2016. Last week, we heard from Professor Cole, from representatives of the construction industry and from headteachers. This week, we will hear from local authorities, and I welcome Peter Watton, head of property and facilities management for City of Edinburgh Council, Allan Whyte, head of property and facilities management for Aberdeenshire Council, Danny Lowe, director of housing and technical resources for South Lanarkshire Council, and Dave Aitken, chair of Local Authority Building Standards Scotland.

As I mentioned last week, it is important to note that there is an on-going fatal accident inquiry relating to the accident at Liberton high school in 2014, when, very sadly, a pupil died following the collapse of a wall in the school. We will therefore avoid discussing the specifics of that accident to ensure that the committee does not impinge on the work of the FAI by exploring matters that may be sub judice.

Before I bring in colleagues, I will kick off with a question. From a local authority point of view, how was it that schools were built with serious defects in the brickwork, and what lessons have been learnt?

Danny Lowe (South Lanarkshire Council): The evidence that has emerged on the back of Professor Cole's report seems to suggest that there has been a lack of quality assurance across a number of sites, which has led to those problems. A lack of supervision of certain trades on sites has led to errors that have been covered up and have come to light only a number of years later. That is a fundamental issue but there are a number of other related issues, such as availability of resources and proper skills being attributed to those individuals. Professor Cole has covered most of those issues in his report, but those are the key issues from a local authority perspective.

The Convener: Do other witnesses have comments?

Peter Watton (City of Edinburgh Council): From City of Edinburgh Council's perspective, particularly with regard to public-private partnership building, it is clear that the fundamental issue was a lack of responsibility for quality assurance on behalf of the client. It is a lot more complicated than that, and there is a cocktail of issues that we have to address, but 17 schools

were built with defects and we, as the authority in whose area that happened, have thought and debated long and hard as to how that came about. We have analysed how the PPP building was procured, and indeed the relationships between the special purpose vehicle and the council as client at that time, but the fundamental issue that is coming through is about quality assurance and ensuring that what you procure is actually what is built on site.

Allan Whyte (Aberdeenshire Council): It would be a generalisation to state that all schools have defects: there have been large programmes at schools showing no evidence of significant defects. It is certainly of concern if such a situation has been established in schools constructed during the PPP era. Fundamentally, there seems to have been flaws in some of the detail of the designs at the time, how that information was communicated to the contractor and how the work was undertaken on site. That is where we must learn the lessons.

The Convener: You say that there was a lack of communication and a lack of quality assurance. Surely any builder knows that, when they are building such walls, wall ties have to be in place. That seemed to be the theme running through all of Professor Cole's evidence last week.

It seems to me that the local authorities said that the work was the builders' responsibility, they should get on with it and the council would not take any responsibility until such time as it had to. Surely, as the local authority, it was your prime responsibility to ensure that the schools the children were going to were safe.

Danny Lowe: I absolutely agree with that as regards the contractual responsibility going through the PPP arrangements. The transfer of risk generally goes with the contractor when it comes to delivering the product as set out in the specification.

At South Lanarkshire Council, we decided to take a hands-on approach to checking quality assurance throughout the PPP contract. Within that contract, there is a role for an independent certifier, who is engaged by the various parties to the contract and who is there to check and certify, so there should be a scope or documentation on what the certifier is expected to carry out as part of their independent certification process.

In South Lanarkshire, we overlaid the PPP contract with our own in-house team. That in-house team included a senior architect and a full-time clerk of works, who were there to monitor quality assurance in the delivery of the PPP programme. They carried out their own assessments on behalf of the council so that we could satisfy ourselves in that regard.

Based on the size and scope of our PPP project, and recognising and valuing the importance of getting the buildings built in the way that we wanted—because they needed to be fit for purpose as buildings and as good, creative environments for teaching and for kids to learn in over the next 30 years—we felt that it was really important to have a quality assurance process in place, which we did, and we put that over and above other considerations.

I am trying to clarify that not all authorities tackled the matter in the same way. Some took a slightly different approach.

The Convener: The question that leads from your answer is: if South Lanarkshire Council was doing that, why was everybody not doing that?

Peter Watton: It might be useful if I explain the difference between the council's PPP1 and PPP2 contracts. We found no issues with PPP2. What was the difference between the two? As Danny Lowe has just explained, our in-house resource—our technical team, architects, projects managers and so on—were not involved in PPP1.

The Convener: Except they were in the case of South Lanarkshire.

Peter Watton: Yes, exactly; and they were in PPP2 in Edinburgh. They were policing what was happening on the ground, and indeed in the project team. So—

The Convener: I do not mean to interrupt you, but I am kind of at a loss as to why they were not involved at PPP1. There was clearly best practice there, or there was overlay of scrutiny in South Lanarkshire and, I suspect, in one or two other councils, but not in all councils.

I go back to the whole point about responsibility. It was the local authority's responsibility to ensure that those schools were safe. There seems to have been a huge abrogation of that responsibility in certain local authorities.

Allan Whyte: The issue concerns the timing of the constructions. I may be wrong, but South Lanarkshire probably had the benefit of coming into its PPP programme later on.

In Aberdeenshire, with more recent, similar developments, we have had full inspection shadow teams. That was put in place before the findings in Edinburgh. I remember having a debate with my team and having to be convinced about the need for a clerk of works inspection when we have a competent contractor and design teams who should be quality controlled and assured. My team convinced me that we still needed a clerk of works and we continued on that basis. The evidence was that we had no defects in the school in question in Alford.

I was in Aberdeenshire during that era—I left and came back again—and I was on the periphery of that PPP process. It was a whole new concept and the property teams in particular took a light-touch approach. That was the concept: we were being sold a model of risk transfer to a provider that would undertake the works. Our involvement was to oversee some of the design aspects—general aesthetics and so on. Some things, such as the room data sheets, were primarily led by education, legal services and financial services because much of the thinking was that it was a financial services delivery as opposed to a construction services delivery.

At that time, construction professionalism was almost out of favour in relation to input from the council. In hindsight, that seems remiss, but at that time it did not seem inconceivable that that was the right approach.

The Convener: I accept what you say because I remember that period and the fuss around the PPP contracts. However, safety of schools is a local authority responsibility and I would have thought that the local authority would have ensured—particularly as it was a brand new type of project—that it was comfortable with the way the work was being done in the early stages.

I will bring in my colleagues.

Liz Smith: I take you back to the evidence that Jim Thewliss gave last week. He said:

"I feel quite scared about what has been happening.

Headteachers take over school buildings on the basis that they trust that they are fit for purpose. Professor Cole's report highlights entirely consistently the missing link between the contractor and the client."—[*Official Report, Education and Skills Committee*, 14 June 2017; c 15.]

He said for "client" read "headteacher".

My question is for the local authority representatives. What must be done to improve that link between local authorities and headteachers?

Peter Watton: For some time, the situation in Edinburgh has been that the headteacher is part of the project board. At the moment, the new Boroughmuir high school is onsite and the headteacher is part of the decision-making process for the construction of that school. It was the same for the building of the new Portobello high school and James Gillespie's high school. Headteachers are much more involved in the decisions around the construction project.

Liz Smith: A headteacher might be comfortable sitting on such panels, but they are not comfortable in the sense that they are not trained in building requirements or knowing what is a good or a bad design. That point was made forcefully by one of the other witnesses last week, who said

that there is a gap in knowledge even among the building contractors, such that we are not necessarily getting the quality we should be getting. That is a different issue in one respect, but I feel that headteachers have a powerful point. They are almost in a position of responsibility, yet we surely cannot expect them to have all the necessary knowledge to know what is good or bad design. That is the question Jim Thewliss was asking, and that we need to address.

I am interested to hear what local authorities think that they can do to give headteachers some security in all of that.

Danny Lowe: In South Lanarkshire, the schools were not individually involved in influencing the contractual arrangements. At the end of the day, that is why the council has a property section and people to set up contracts—there are designers who take that forward.

We engaged with the headteachers of every school that was constructed throughout the programme on what makes a good learning environment, by asking what the best use of space in the school could be and how the classrooms should be laid out. It was not particularly about the size of classrooms, bricks and blocks and what a roof should look like—the design of the property and the structural implications—but the things that would make it a good teaching environment. We asked what the flow of the school should be in order to make it a good learning environment that is fit for the current situation and for future needs.

Teachers were involved in picking the colour schemes to make the schools look good, bright and vibrant, and they were involved in the interior design at the end of the project and in setting the logos and how they would look in the school.

10:30

However, taking a step back from that, in South Lanarkshire our schools modernisation team provides a conduit between the designers, the property constructors and their managers, and the headteachers, once they are involved in the process. When a design for a school is ready, based on initial discussions of the modernisation team with the headteachers, that design is presented to the headteacher for comment and amended if appropriate.

The parent-teacher association for the school then has a chance to view the design—the layout and how it will look and feel—and thereafter we arrange a roadshow in the school to allow the wider community to have a look at the proposals and give their view. That means that at the end of the day, when the project is constructed, there are no surprises concerning what is being built. We were not looking for the headteacher to design the

structural requirements of the school or to choose the materials that should be used. Instead, it was more about layouts, flow and generally making a good teaching environment.

Liz Smith: I accept all that and it is very important that the headteacher, staff and parents are involved in making suggestions. However, Mr Thewliss's point is about responsibility. He made the very powerful assertion that every parent wants to know, when they send their child off to school each day, that the school is safe. The point he is rightly making on headteachers' behalf is that the structure of how contracts are made and overseen is not sufficiently robust. Therefore, headteachers are left a bit in limbo as regards being able to say who is ultimately responsible for the safety of the building.

My point, which follows on from what the convener was saying, is that it is somebody's responsibility to ensure that the school is safe. I would be very interested to know how you think the situation can be improved, so that all local authorities can give a categorical assurance that the right processes are in place to ensure and guarantee that safety.

Danny Lowe: Yes. I will try to cover that briefly in terms of our two arrangements. Our secondary schools were built under a PPP arrangement and the PPP provider is required to keep the schools to the desired standard. It is important that the council retain an overview to make sure that the standard is being adhered to, because the council is effectively delivering a service from those properties.

Secondly, the primary school estate in South Lanarkshire is council owned and built, and we actively monitor repairs and maintenance, carry out cyclical inspections and monitor the condition of those properties in association with the schools. It is for the property section of the council to make sure that those schools are maintained to the correct standard.

Daniel Johnson (Edinburgh Southern) (Lab): First, I highlight, as I did last week, that this issue significantly impacted my constituency of Edinburgh Southern. Oxbgangs primary school is just outside it, but a number of schools in my constituency were also impacted.

You have mentioned quality assurance, but another point that Professor Cole made very clear in his report was that the key issue is the nature of the contract and the packaging up of the design and construction elements, which can happen in a number of models. Will Peter Watton reflect on the steps that have been taken since Professor Cole's report was published? If other panellists have comments, I would be interested to hear them, too. I am specifically interested in quality

assurance—in making sure that things were built to spec and that they are safe.

Peter Watton: A report will be submitted to the City of Edinburgh Council next Thursday on the council's full response to the Cole report. I will send it to this committee's clerks on Friday for your information, once it has become public. The report is more than 100 pages long.

The response has started. We are carrying out intrusive surveys on all existing buildings on the basis of a proportionate risk approach, and we are starting with those at highest risk, which were constructed post 1995.

The information on our approach is detailed in appendix 1 of our submission to the committee. All PPP1 and PPP2 buildings have been remediated and firestopping issues have been addressed and will be further addressed during the summer break. All council properties are undergoing a condition survey and, as part of that condition survey, specialist fire surveys will be carried out as an additional appendix.

It is fair to say that, since PPP1, the level of our approach to quality assurance has increased significantly. As a result of the Cole report, it will again increase significantly. We have engaged with our main supplier, Hub South East Scotland, and have agreed with it a series of measures to take into account the Cole recommendations. That is attached to my written submission as appendix 2.

The fundamental issue in relation to PPP1 was the lack of quality assurance. We will now have clerks of works on all in-flight construction projects and on all construction projects moving forward. It would be wrong to say that having a clerk of works on site is the answer to all the problems, but it mitigates risk by establishing a direct relationship with the client about what is happening on site—it involves ensuring that what was procured is actually what is being delivered, particularly in relation to elements of the building that are not visible once it is constructed.

We have significantly increased our capacity in terms of in-house resource professionalism. I spoke to my colleagues before coming here today. A most important point is that the senior responsible officers for decisions under PPP1 were education officers, and the decisions about how the capital was spent and how the project was delivered were made within that envelope. As we have heard, the private sector said at that time, "Leave it to us. We're the experts and we'll deliver it for you." It is clear that something went wrong, particularly in relation to the masonry elements of the 17 buildings.

We have learned a lesson and are moving to what we term a corporate landlord approach. That

means that the property professionals deliver the building and maintain it through its life cycle, so that decisions that are made about the capital costs of construction take into account the life-cycle costs of the asset vis-à-vis the revenue costs per annum. That is what the industry requires and what should be happening. I hope that those elements give you some comfort about how we are moving forward, particularly in relation to projects that are on site or are due to come on site.

Daniel Johnson: Professor Cole made the point that, because design and build had been put together in one contract—whether that was under PPP or another model—there was a lack of transparency about the detail of the design elements. Have you addressed or are you seeking to address that point?

Peter Watton: We are certainly seeking to address it. The problem with design and build is that, at some point, you novate the design to the contractor. From that point on, the designer and the project team are working to the contractor. The challenge is how to retain the benefits of the design, build, finance and maintain model and of design and build while still getting quality assurance directly as the client. That needs to be addressed.

It is important for the committee to understand that, under PPP at the time that we are discussing, the contractor, as part of the consortium, had an investment in the vehicle that was delivering the schools. Typically, the contractor's return would be shares in that company. A commodity was created that was to be sold as an investment. Typically, the first party to exit—that is, to sell its shares—would be the contractor. The investment market does not see its involvement as buying 17 schools; rather, it sees it as the right to receive a revenue return from a local authority for 30 years. From that perspective, the contractor exits quite early in the SPV. We read in the Cole report that the shares in PPP1 have been sold several times over the years to different investors.

Daniel Johnson: Do other panel members have reflections on the implications of the Cole report and any changes that are needed?

The Convener: I inform the witnesses that they do not need to press the microphone button to speak—that is done for them.

Allan Whyte: At our committees, we have to press the button; you are more modern in Edinburgh. Thank you for that advice.

I will give an example. Last week, I was at Uryside primary school in Inverurie, which is one of our schools that are under construction. I was reassured to see the practice that the contractor is adopting.

There are a few ingredients that ensure a successful project. One ingredient is having the right contractor. In Aberdeenshire, our approach is to go through a framework whereby we pre-qualify the contractors to ensure that the right one is chosen. Another ingredient is having the right designers, which is so important. Quality assurance by the contractor and quality control on site are important, too.

What I witnessed last week at Inverurie was effective quality control. I verified that the site manager had taken photographic evidence of all the cavity walls, the wall ties and the wall head restraints. All the tradespeople on site had to date and sign off when they had undertaken the work. The site was immaculate and the quality was first class.

Morrison Construction is carrying out that work. I contend that it was a good contractor before, but it has certainly learned the lessons from and listened to what the Cole inquiry has established, and it is taking those lessons through to its tradespeople.

I spoke to someone from Robertson, which was our PPP contractor. It is putting in place training for its bricklayers based on the findings of the Cole report to ensure that they recognise the significance of quality and safety to the work. There is a spotlight on construction right now and the industry is reacting to that.

Our perspective is that there is awareness of the issues. No defects were found in the schools that we have constructed more recently or in the schools that were delivered through a traditional method at the same time as the PPP era. However, we cannot get complacent and we must ensure that the additional quality assurance checks are in place.

The Convener: This is Daniel Johnson's last question.

Daniel Johnson: I have one final question. One of the most concerning conclusions that Professor Cole put in front of us was that there are almost certainly a number of undetected faults in buildings across Scotland, but we do not know what they are. Does Dave Aitken concur with that conclusion? Is there any way that we can know the scale of that issue?

Dave Aitken (Local Authority Building Standards Scotland): I do not think that I am in a position to answer a question about the scale of the issue. The Cole report highlighted the misconception about the role of building standards in the construction process. On the lessons learned, I am aware that the Scottish Government's building standards division is reviewing the legislation that is in place on

inspection regimes. LABSS will be involved in that review.

I think that it was hinted earlier—that this runs through the Cole report—that there is no magic-bullet solution. There must be a holistic and collective approach. Everyone has their part to play, as building standards will through inspections. LABSS has invited all key stakeholders—project managers, architects, engineers, colleges and universities—to an industry event in August, where we will use Cole as a backdrop to come together as a collective group and see how we can move forward and assist the Government with its research.

10:45

Daniel Johnson: Do you agree with the conclusion about undetected issues?

Dave Aitken: It is hard for me to pass judgment on that, because building standards services are required only to carry out reasonable inquiry.

The Convener: Further to that, was there an overreliance on building standards services?

Dave Aitken: There is a misconception about the role of building standards, which is highlighted throughout the report.

Gillian Martin (Aberdeenshire East) (SNP): I declare an interest in that my daughter goes to one of the PPP schools in Aberdeenshire and I want to ask Allan Whyte questions about those schools. I seek assurances for parents such as me about what was done when the issues with the Edinburgh schools were identified. What did Aberdeenshire Council do to inspect the schools that were built under the same scheme?

Allan Whyte: I have some of that information in front of me on my computer. When the issue arose in 2016, we initially carried out a desktop assessment to identify the schools that were built in the same era, which included the PPP schools. Soon thereafter, we carried out a visual survey of all the schools, which did not indicate anything of major significance. We used scanning devices—borescopes—to look at the presence and location of wall ties and wall head restraints. However, we changed the approach and carried out targeted intrusive surveys in late autumn last year, which identified some issues that need to be rectified. There is an absence of wall head restraints in some structural frames and some localised inadequate embedding of wall ties, which is similar to the situation in Edinburgh but not on as serious a scale.

We moved forward with the desktop exercise and then appointed our consultant independent engineer, Fairhurst, to do the visual surveys. To provide additional reassurance, we carried out

intrusive surveys, through which we established that some localised issues need to be remedied.

How we do that moving forward is all important. The PPP contractor, Robertson Education Aberdeenshire, has given a commitment that it will rectify the defects at cost to itself. I spoke to Robertson as recently as this morning and got a commitment that it is geared up to undertake the work during the summer. There is a slight debate between the engineers about the scale of work that has to be carried out to the wall head restraints. My view is that we should take no risks on that and we should just undertake the work. I gave Robertson firm advice that it needs to undertake the work on that basis.

To provide reassurance, our independent engineers and the PPP project company stated that there is no immediate risk to building occupants. Similar to Gillian Martin, I have a son who is at one of the schools involved—Banff primary. We have been reassured by the contractor that safeguarding our pupils is the ultimate concern, and we are looking to carry out the programme of work during the summer holiday period.

As a result of the Cole report and on-going concerns about firestopping issues, we carried out a fire risk assessment in conjunction with the project co and identified a number of firestopping issues at the PPP2 schools. There were a significant number of issues, and I assure the committee that the works to those schools were undertaken in April this year.

Gillian Martin: Professor Cole's evidence centred on there not being a clerk of works present in the Edinburgh schools. Was that the case when the Aberdeenshire schools were being built?

Allan Whyte: We had no clerk of works involved. As I said earlier, we were on the periphery. I managed the clerks of works at that time, and we were never asked to be involved. Because of the model that was being delivered, no requirement to be involved had been identified.

Gillian Martin: How has that changed?

Allan Whyte: We have a clerk of works involved now. Across Aberdeenshire, we have 20 property inspectors, as we term them, which is probably more than most authorities in Scotland. We will retain that resource—they work on all our capital projects and on maintenance projects, too. When we did a similar model for the design, build, finance and maintain project through hubco, we had an independent clerk of works on that, too.

When it comes to using clerks of works, it is all about quality inspections by qualified clerks of works. There is a bit of work to be done by all

authorities there. There is a ticking time bomb because of the age profile of clerks of works and the need to attract people into the industry. We as an authority are considering that, and we need to identify the training that is required for clerks of works.

Gillian Martin: Another issue that was mentioned in last week's evidence was the standard of training that is provided for bricklayers. In relation to subcontracting, people were not aware of who was on site, what qualifications they had and what standards they applied. How did Aberdeenshire Council address or manage that?

Allan Whyte: I could say a couple of things about that. There is a concern about the number of people going into the industry. Last year's intake of bricklayers across Grampian numbered 12, which is far too low. Under the developing Scotland's young workforce programme, which all authorities are pursuing, we have a piece of work in Aberdeenshire, because we have identified a need to get people into the construction sector. We are working with education services, human resources and major contractors to organise a workshop and seminar on how we can address that. We do not think that the existing practices are sufficient.

We have spoken to people in the industry, which is doing additional training. As I mentioned earlier, Robertson is providing a video to train its apprentices and to reinforce the message.

Contractually, we always have a right to carry out an inspection in order to ensure that the contractors have the qualifications to undertake the work on site. We can probably do more contractually to provide reassurance that the individuals who are carrying out the work on site are qualified and have the skills to undertake the tasks.

Clare Haughey (Rutherglen) (SNP): I thank the panel for coming along this morning. I will pick up on some themes that I explored with last week's panel, and on which I have specific questions. Is the inspection activity resulting from the problems that were identified in Edinburgh considered to be adequate in your local authority areas? I am particularly keen to hear from South Lanarkshire Council—Mr Lowe's authority—which covers my constituency.

Danny Lowe: We have undertaken a number of actions since the Cole report came out, and since the incident at Oxfords. We had Fairhurst consulting engineers carry out intrusive surveys at three schools on our secondary school estate. We had three phases of works for the PPP contract, so we selected a school from each phase, which spanned the two contractors that worked on the programme for us. Fairhurst then did a walk-

around of sites to identify walls on which they wanted to carry out intrusive surveys, and it checked the as-built drawings. Following that, it did the intrusive surveys and confirmed that walls were built as they should be and were stable, so there were no issues in relation to that. A minimum amount of repairs were noted as a result of that survey, and those were carried out with no disruption to schools.

We did a visual inspection of the whole primary school estate last April: we did a walk-around survey. We then selected for intrusive survey five primary schools on which the five different contractors that had worked across the programme had worked. We also did desktop audits and checks with the designers who had worked on the programme to confirm that the same wall detail that had been used in Edinburgh was not used in any South Lanarkshire schools, and it was confirmed that that was the case; we got assurances on that.

We also checked our project records: we had a clerk of works engaged in every project that we carried out. When they were on site, it was their job to monitor the quality of the work that was being done in order to ensure adherence to specifications and to check standards.

We could go back into our project records, which in many cases include photographic evidence—for example, of the external walls as they were being built, showing the presence and spacings of wall ties, and in which it is also possible to see the embedment of ties. Rather than having to go back and do further intrusive surveys, we could see the picture from the desktop exercise. Only minor repair works were noted as part of the intrusive survey and the visual survey, and they were carried out with no disruption to the schools.

We have an annual cycle of inspection of all our properties—not just schools—in South Lanarkshire. That is carried out by our in-house team of building surveyors, who look way beyond the elements that were picked up in the Cole report. A whole-condition assessment of a school will be done, and we would use that in reporting information on property condition to the Government. We also use that information in our life-cycle maintenance and in looking at our capital programmes so that we can properly plan future investment requirements. Last year, the annual inspections were completed at the end of March. We went back and checked the records to see whether any issues had been picked up, and that check reassured us that everything was as it should be.

Clare Haughey: Will the other local authorities comment on the issues that have been raised? I do not want to seem South Lanarkshire centric.

The Convener: Can the answers be kept as brief as possible, please?

Peter Watton: The City of Edinburgh Council is carrying out intrusive surveys. As a result of doing so, we have identified five properties that have similar problems. They are not identical or are not problems to the same extent—there might be only 80 wall ties in a panel in which there should be 100, for example. As I am sure members will appreciate, we have adopted a very risk-averse approach and are remediating in those circumstances.

Allan Whyte: As other local authorities have done, Aberdeenshire Council has done all the work on the quality assurance aspects in the existing PPP and similar projects. Moving forward, the focus will be on our existing assets, for which we are developing a survey programme. Aberdeenshire Council is also inputting to work that is being done nationally on a consistent approach in how we assess buildings' condition and suitability. That is being carried out by the Scottish Government and the Scottish Futures Trust, and the Association of Directors of Education in Scotland is involved in it.

To provide reassurance, there has always been a monitoring regime to check buildings, but we are now moving forward to a more intense condition survey approach.

Clare Haughey: I go back to what Mr Watton said in reply to Daniel Johnson's question about financing. He talked about how the asset gets sold on by the original contractor. If you knew that, why was the particular contract or finance deal used?

Peter Watton: It is the same for every PPP or DBFM contract; the ultimate owners of it have tradeable shares in the company. Edinburgh's PPP1 is not isolated; it is the same with them all. The asset is, in effect, a commodity—the right to receive a revenue income from a local authority covenant.

Clare Haughey: My impression from how you answered the question was that you had not foreseen that. I just wanted to clarify that.

Peter Watton: Okay. Sorry about that.

Ross Greer (West Scotland) (Green): I want to follow on from Clare Haughey's original questions on inspections, but first I want to check with Mr Watton that I understand what happened at Oxgangs. My understanding is that, after the initial incident there, visual inspections of Oxgangs primary school and 16 other schools were carried out, and the school was reopened after the visual inspection, but was closed for a longer period after the intrusive inspection. Was the intrusive inspection automatically triggered? Is there an automatic process following such an incident, or

was the decision to do an intrusive inspection taken only after the visual inspection had been carried out?

11:00

Peter Watton: It was the latter. The provider, Edinburgh Schools Partnership Ltd, had carried out visual inspections and did not identify any issues. The wall that fell down had to be repaired, obviously, and a method statement of how that was going to take place was done. As an additional precaution, an intrusive investigation was done by ESP of the rest of the walls at Oxfangs primary school. It was at that point that someone from ESP came to our offices and told us that they could not guarantee the safety of the children at Oxfangs or at the other 16 properties. That left us with very little choice but to close the other facilities and to proceed with additional intrusive surveys and, ultimately, remedial works.

Ross Greer: I would be interested to hear everyone's thoughts on that issue. Should such an incident not automatically trigger the need for an intrusive inspection? Is there a process issue here? Is there a need for a much more stringent and clearer process for what happens in the aftermath of such incidents, so that a school does not reopen and then close again, as happened in that case?

Peter Watton: It would be virtually impossible for a contract in that context to cover every eventuality. What happened was that, because we lost possession of the school, ESP lost the right to the unitary charge that the council paid it. Ideally, we would design a contract to cover every situation but, in practice, that is impossible.

Ross Greer: I am interested to hear others' thoughts on the processes in their local authorities. After that incident, was a decision taken immediately to move to intrusive inspections? Mr Whyte discussed that with Gillian Martin a moment ago. Is it best practice or part of an agreed process to move to intrusive inspections, or is it only once visual inspections have been carried out that a decision is taken about moving to a more intrusive inspection?

Danny Lowe: For the secondary school estate, South Lanarkshire Council decided to move straight to intrusive surveys. We were not going to carry out intrusive surveys of 121 primary schools, so we quickly carried out visual inspections to determine whether anything was apparent. However, knowing that that would not show hidden faults, we picked those up with intrusive surveys. Generally, we conduct intrusive surveys as part of our approach in such issues.

Ross Greer: That seems to be best practice.

Danny Lowe: Thank you.

The Convener: Mr Lowe, did you say earlier that you looked at a sample of primary schools?

Danny Lowe: We did a sample of—

The Convener: One from each contractor.

Danny Lowe: Yes. We picked five primary schools where work had been carried out by five different contractors and we surveyed them. From the secondary school estate, we did a sample survey of three schools from different phases of the contract.

The Convener: Mr Aitken, do you have any comments to make?

Dave Aitken: I have no comment to make on that.

Ruth Maguire (Cunninghame South) (SNP): Good morning, panel. We have heard evidence that the crux of the matter was that nobody took responsibility on behalf of the client and that, perhaps misguidedly, people stepped back to avoid risk. In seeking to transfer risk away from the public sector, are those who procure such projects too detached from the detail?

Danny Lowe: We did not do that in South Lanarkshire. We decided to be very hands on with quality assurance throughout our PPP contracts and, for the primary school programme that we carried out internally, we engaged a clerk of works.

Ruth Maguire: Why did you do that?

Danny Lowe: As I tried to explain in one of my earlier answers, given the size and scope of the programme and its importance to the council with regard to what it would deliver on our behalf, if we had become detached from it, we would not have had adequate controls in place. We felt that the importance of the programmes merited our being as hands on as we could be to ensure that we got the property specification that we sought in delivery of the programmes.

Ruth Maguire: Would you say that that more hands-on approach, with that element of scrutiny, in itself ensures better-quality construction?

Danny Lowe: I suppose that it brings an added layer in terms of the quality of construction. Fundamentally, in construction there are much wider issues in respect of errors that are not related only to a particular type of property. The issue is not all about schools or about PPP contracts or any other types of contract; it is about errors across the construction industry.

There are two or three things that we can do to resolve the situation. We could employ armies of checkers to constantly check every worker to

make sure that they are doing everything that they are supposed to be doing.

Alternatively, we could try to change attitudes and behaviours in the construction industry itself, so that there is a wider industry effort to think about how people can work collectively to improve quality in construction, which is not necessarily always about putting in more people to do the checking at the back end but can be about ensuring that contractors, from the top down, have an attitude whereby they want to improve quality standards and do not want to hand over projects that have defects. That attitude will filter down from the top all the way to the bricklayers on site. That relates to the quality standards that apply to people's training and to when they get their certification to start with. However, that raises the question of how to keep that training up to date, given that construction methods change.

The Convener: One of our colleagues will ask about skills and training shortly, so we will address that point then.

Ruth Maguire: Do you acknowledge that it is important to have independent scrutiny so that the slight conflict of interests in terms of quality assurance is addressed?

Danny Lowe: Certainly in South Lanarkshire we felt that that was important, which is why we put in place the checks in every contract.

The Convener: I think that it was Mr Whyte who said that you came into the PPP process later. Would that have guided your position towards being more hands on, or was that just the culture that you had?

Danny Lowe: I was not involved at the time, but I suggest that that was the culture that we had in the organisation. The PPP arrangement was signed in 2006, and we became involved after that. However, a number of the faults that we are speaking about today arose much later than that, and would not have been apparent at that time.

The Convener: Does anyone else have any comments to make on Ruth Maguire's questions?

Peter Watton: I would like to make a brief point about the transfer of risk. In my experience, given what we have been through with the PPP arrangement, I would say that you can try to transfer all the risk you want, but you will never in practice be able to transfer reputational risk.

Allan Whyte: Although an authority might not have employed a clerk of works, there would have been an independent certifier. At the time, the perception was that the independent certifier was carrying out the role of the person who worked between the contractor and the client to ensure that the work was carried out to the right standard. However, history has told us that the independent

certifier is on site for only one and a half days a month and would not have the capacity to check everything.

Fundamentally, a clerk of works is not a panacea: the building has to be designed and constructed correctly. A clerk of works will solve part of the problem, but there are other strands of activity that we need to resolve.

The Convener: The term "magic bullet" has been used a few times, but there never is one, and I think that everybody recognises that a clerk of works would not be one, either.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Our main concern is to ensure that present and future schools and other public buildings will be safe. Is the procurement process itself flawed? If so, what has to be done to change it?

Allan Whyte: That is an interesting question. We have to work within the procurement rules. If you are in the private sector, you can select who you want to undertake work. In the public sector, quite rightly, there is open competition and the process must be transparent and have integrity—that is an absolute given—which means that you do not always get the contractor that you want on a construction project.

Therefore, you need to ensure that you have an effective procurement strategy. In Aberdeenshire, we use a pre-selection framework, so that we ensure that we get only contractors to undertake work who have been tried and tested and have reached a successful outcome. In that context, the defects that we have seen in the industry are not a procurement issue. However, as construction professionals, we have to ensure that we work with the procurement service, within the legislation, to ensure that we get the right outcomes.

Colin Beattie: Is it the contract process that is flawed?

Allan Whyte: There are different ways of undertaking the process. All of us here have been working in construction a long time and we have probably changed our minds about the right approach. We were encouraged to use a design-and-build model in order to transfer risk and ensure cost control, but in Aberdeenshire we are now minded to go back to a more traditional model, where we retain most of the control. That is the approach that we are taking in most of our current construction projects.

Colin Beattie: Is that the route that other local authorities are now going down?

Peter Watton: Yes. We are going back to a more traditional approach and also working with our hubco to address issues.

Procurement is not the issue, because the client team sets the rules of engagement for procurement at the outset. More careful thought needs to be given to what the rules of engagement are in relation to the issues that the Cole inquiry has raised.

Colin Beattie: The PPP contracts are quite complex and the companies have top lawyers that put them together and negotiate them. How good are councils at matching those skills and getting the right lawyers to back them up in the negotiation process?

Peter Watton: Every local authority is different. In Edinburgh, we have a framework involving all the major firms in Edinburgh. For a complicated project, we would bring in external expertise to advise us.

The industry is learning from past mistakes in PPP contracts that were entered into 15 years ago. The situation is evolving as issues arise—for example, those with the national health service project to build the new Royal Infirmary of Edinburgh. You would not sign up today to some of the contracts that were entered into 15 years ago, because of what has been learned about the PPP model in the intervening period.

Colin Beattie: But the contracts that were entered into 15 years ago still have another 15 years to run.

Peter Watton: Exactly.

Colin Beattie: When the contract is signed, is there any risk assessment of the contract in order to manage potential issues?

Peter Watton: Some of the contracts take a year or two to negotiate and we are considering the risks throughout the process. Commercial negotiation is about compromising on some things and not compromising on others. That is the cut and thrust of the skilled negotiator—to be able to ensure that they get the best for their client, which is the council.

Colin Beattie: There will still be areas where the risk is higher—I will not say where there is more weakness—than in other aspects of the contract. I presume that the council would want to keep managing that risk and ensure that it is mitigated where possible.

Peter Watton: Absolutely, but in every circumstance you have to consider the respective negotiating strength of each party. If I have a contract that is extremely valuable and I am negotiating with three parties about who gets it, my negotiating position is considerably better than if I am in a one-to-one situation. Having a competition between the parties to get the contract enables the local authority to get a better outcome, because it is in a better negotiating position.

The Convener: If the local authorities are in the best position, how did they end up getting a deal that did not have school safety at its heart?

11:15

Peter Watton: I am absolutely 100 per cent prepared to admit that, at the time, the council got it wrong.

The Convener: That is not getting it wrong; it is fundamentally missing the whole point of what you are there to do. That is not making a mistake; it is making an absolutely huge error of incredible proportions.

Peter Watton: I am not sure whether there is a question there, but I agree.

The Convener: It was a statement—do not feel that you have to respond to it.

Colin Beattie: Still on the same theme, just to tie this up, there have been references to the fact that contractors have been making good some of the deficiencies. Is that uniform? Are the contractors picking up the cost in every case?

Peter Watton: I can speak only for Edinburgh but yes is the answer to the question.

Colin Beattie: Is it the same for others?

Danny Lowe: Yes, it is. Under the PPP arrangements, it would be part of normal maintenance.

Colin Beattie: So leaving the risk aside, the cost at least is not coming from the public purse.

Danny Lowe: Not that I am aware of, no.

Colin Beattie: There will be other costs, of course.

We keep talking about errors, but there is a pattern—this is happening across the country and quite extensive deficiencies have been picked up. Is not what we are seeing a deliberate attempt by contractors to cut corners and to cut costs to try to come in within budget?

Allan Whyte: At the time, this was a new concept; it was a move away from the traditional model to the design-and-build model. Contractors would appear to have had a free rein, rightly or wrongly—there was probably far too much work on—and there were harsh penalties for failing to complete on time, which impacted on the quality. That is the reason.

Colin Beattie: We keep trying to put nice words around it but the fact is that corners were cut.

Allan Whyte: Absolutely. It was horrendous. There is no doubt about that.

Colin Beattie: Deliberately?

Allan Whyte: It would appear so, yes.

The Convener: Colin, you cannot really ask the panel members to start throwing accusations at contractors.

Allan Whyte: We have to look at the here and now. We have now researched and analysed our more recent projects and we have not found the same level of defect. The evidence would suggest that the sector has matured and we are not in the same situation. We certainly do not want to be in such a situation ever again.

All of us sitting here were not instrumental in procuring the projects; we are instrumental in ensuring that we remedy the defects that happened before we came in.

Danny Lowe: I agree with what Allan Whyte is saying and I back up the point about the volume of work. At that particular point in time, there was a huge volume of work across the country, which put added pressures on contractors in terms of speed and getting things moving. The volume of work could have been a contributory factor.

Johann Lamont (Glasgow) (Lab): This point was brought up earlier so we will not spend a lot of time on it. It is the question of whether there is a gap in skills and training, both within local authorities and within the construction industry.

First, has there been a change in local authorities' policy around capacity issues? Back in the day, you would have had an architects' department and a fully staffed planning department—there would have been capacity to be able to monitor projects. Am I right in thinking that that capacity is diminished? Was that part of the difficulty in supervising projects? If so, what have local authorities done about it?

Danny Lowe: South Lanarkshire Council has a team of about 100 multidisciplinary officers—architects, engineers, quantity surveyors, structural engineers and the like. That is the team that is there to deliver the programme. Those in the team tend to have been in place for a number of years and the team has built up a fair degree of knowledge and experience around managing projects and delivering them. Our school estate projects have been fairly successful, if I say so myself, so what you are describing has not been the case for us.

The staffing level has remained consistently high and we routinely check—year on year—what works are coming up, for the purposes of workforce planning. We look at the volume and type of work that is coming, cross-reference that with the team that is in place, to see whether we have the right skills match, and adjust our team accordingly.

In some cases, we take the view that we do not want to add to the team, because we want to keep it at a constant level. It is important that there are external frameworks that enable us to engage with consultancies and bring in staff or consultants short term or for a project, if we do not have the skills and expertise inside the council that we need to deliver a project, or if we do not have the capacity at the time.

Johann Lamont: Is a different approach taken in other places?

Peter Watton: We take an identical approach in Edinburgh. There was a time—coincidentally, it was around the time of PPP1—when the view was that all disciplines should be outsourced and there should be no in-house team. However, today we have around 100 in-house staff—architects, engineers, clerks of works and so on—who are delivering projects directly, from design right through to construction. We also have frameworks on which we draw in respect of delivering major projects or when the volume goes up.

Allan Whyte: We take a similar approach in Aberdeenshire. We have around 100 internal staff, and we probably spend £2 million a year on external resources. I have always had good support from officers and the political leadership. People recognise that big programmes need to be resourced efficiently. We are okay in that regard.

Attracting staff is harder, and I have never been at full complement. The situation fluctuates—sometimes the issue is estates surveyors, sometimes it is engineers and sometimes it is building surveyors.

Johann Lamont: Let me be clear: the lack of supervision of projects was not about councils' capacity to do the work; there was an active choice to make that someone else's job.

Allan Whyte: Yes.

Johann Lamont: The skills base in the construction industry has been mentioned. I am troubled by the idea that contractors, left to their own devices, will try to cut corners. A picture is emerging of recklessness with regard to safety, and of operatives at the basic level of the workforce who are unaware that they are doing the wrong thing because of a lack of training. Is that an unfair characterisation of what has happened?

Peter Watton: The lack of skills that we are suffering from is the result of the recession. People who left school during the recession were not going to go into a trade that had basically ground to a halt. However—and Allan Whyte alluded to this—in a buoyant market, it is difficult for local authorities to match the salaries that are

available in the private sector. That is always a restraint.

In Edinburgh, in every procurement contract relating to construction, there is an obligation, as part of the tender, to take on apprentices from the local community where the asset is being built. That is an absolute obligation on the successful party—the apprentices might be in woodwork, bricklaying or whatever—and tenders are scored on that as part of the procurement process.

Johann Lamont: Such initiatives have happened in different places at different times and are to be welcomed. However, I am wondering whether there is an issue with the construction industry. Trade unions in the industry often say that work is subcontracted out to such an extent that there is no proper supervision, and health and safety in construction in Scotland is still a scandal, with the level of fatalities a concern. You seem to be saying that if contractors are left to their own devices, they will cut corners. If they are compromising the safety of the buildings that they complete, I presume that they are compromising the safety of the people who work in the industry.

How do we address that broader question? Flaws might emerge in the procurement process or, in some cases, problems are avoided because there is good supervision. When a building is constructed in the private sector, no one is supervising with the public interest in mind. Is that a major safety problem?

Allan Whyte: My general impression is that safety has improved considerably over the years. We take the issue seriously and have two full-time safety officers on our team. No one would go on site without a construction skills certification scheme card or undertaking an induction process.

That is my impression, but I am not on site every day.

Johann Lamont: It may be that on-site safety is better, but there is an issue with the capacity of the individuals who are working on the site to be aware that corners have been cut or to flag that up if it happens. Imagine that you are a young person working on a school building site: you might be unaware that you are not doing the right thing; or you might be aware that you are not doing the right thing but feel that there is no one that you can speak to about it. Both those situations suggest that there is a lack of skills to know whether there is a problem and an absence of space to go and tell someone about it.

You are painting a picture of people who, if they are not watched like hawks, will build something unsafe. I would be interested to hear contractors' views on that characterisation. For the tradesperson who is doing the job with autonomy and who would be able to identify a problem with

what they have been asked to do—or even with something that they have not been asked to do—is having somewhere they are able to go to raise the matter an issue? The problem is either that they do not know that they are not doing the right thing, or that they do know but have no place to raise the issue.

Danny Lowe: There is possibly even a third scenario, in which someone raises an issue but someone else makes a choice not to do anything about it. It is difficult. As was mentioned earlier, it might be a case of engaging more checkers, who sit above everybody else all the way through a project, to ensure that things are done. If people understand their role and know what they have to do, it is incumbent on them to carry it out. That potentially goes back to contracting organisations' responsibility to ensure that their attitude to quality is cascaded from the top down. The approach would be the same as we take for health and safety, for example, when we say that certain things are unacceptable.

There might need to be a change in culture. Time and costs are important on a job, but they should not be at the sacrifice of quality. Quality must be assured as we try our best to develop and deliver projects that are error free. People need to be comforted by the company having a top-down commitment that if they raise an issue, it will get sorted.

Johann Lamont: Do you have a view on the suggestion at last week's evidence session that apprenticeships in the construction industry have been diluted? People in the old trades and crafts would have had a sense of their own responsibility. They would have said, "Actually, I can't deliver this in the way that you're suggesting." Nowadays, the work is broken down and the training is diluted, with people doing their own bit and not necessarily seeing how all the different parts come together.

Dave Aitken: The feedback that we get from surveyors who go out on site is that the traditional structure of a construction company has completely changed from what it was 10 or 15 years ago. Previously, they had an apprentice, a charge hand and a foreman, so there was an inbuilt quality system, if you like, that was taken for granted. Under the modern structure, that has gone, and a lot of the work is subcontracted. There has been a significant change.

Johann Lamont: Do you concur with the view that is often expressed by the construction unions that subcontracting has gone too far? There is also the issue of what is known as the bogus self-employed. A construction company can be tiny, with all the work subcontracted, which has consequences for the quality of the work.

Dave Aitken: Whatever the structure of the company or the contract, there must be procedures in place to ensure that the operatives are competent.

The Convener: Are there procedures in place to make sure that people who work on sites are competent?

Dave Aitken: Certain sectors have in place competency levels.

The Convener: That brings us to the end of the evidence session. I thank the panellists for their attendance and their evidence. Next week, in the final evidence session in our inquiry into school infrastructure, the committee will hear from the Minister for Local Government and Housing and the Scottish Futures Trust.

That brings us to the end of the public part of the meeting. I suspend the meeting while the public gallery clears.

11:29

Meeting continued in private until 11:41.

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