



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy and Fair Work Committee

Wednesday 6 March 2024

Session 6



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ECONOMY AND FAIR WORK COMMITTEE

8th Meeting 2024, Session 6

CONVENER

*Claire Baker (Mid Scotland and Fife) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Maggie Chapman (North East Scotland) (Green)

*Murdo Fraser (Mid Scotland and Fife) (Con)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Colin Smyth (South Scotland) (Lab)

*Kevin Stewart (Aberdeen Central) (SNP)

*Evelyn Tweed (Stirling) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Gordon Beattie (NHS National Services Scotland)

Stephen Connor (Advanced Procurement for Universities and Colleges)

Craig Fergusson (South Lanarkshire Council)

Melanie Mackenzie (Aberdeenshire Council and Aberdeen City Council)

Rob Mustard (Scottish Water)

Lynette Robertson (City of Edinburgh Council)

Joe Rowan (Scottish Water)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Economy and Fair Work Committee

Wednesday 6 March 2024

[The Convener opened the meeting at 09:00]

Procurement Reform (Scotland) Act 2014 (Post-legislative Scrutiny)

The Convener (Claire Baker): Good morning, and welcome to the eighth meeting in 2024 of the Economy and Fair Work Committee. Our first item of business is the committee's third evidence session as part of our post-legislative scrutiny of the Procurement Reform (Scotland) Act 2014.

We will hear from two panels. I welcome our first panel, which comprises Craig Fergusson, who is head of finance for transactions at South Lanarkshire Council; Melanie Mackenzie, who is strategic commercial manager for Aberdeenshire Council and Aberdeen City Council; and Lynette Robertson, who is head of commercial and procurement services at the City of Edinburgh Council.

As always, I ask members and witnesses to keep their questions and answers as concise as possible. That would be helpful. If you agree with another witness, it is enough just to say that you agree with them, and we can then move on to the next question.

I have a fairly straightforward opening question. We are undertaking post-legislative scrutiny, so we are interested in the changes in your local authorities since 2014. What are the key changes? I also ask you to briefly outline the challenges. Other members will pick up on those issues in more detail.

Craig Fergusson (South Lanarkshire Council): Thank you for the invitation to be here.

The biggest change since 2014 relates to the level of transparency across council procurement teams. The requirement to publish an annual procurement report gives real transparency and accountability in relation to how procurement functions are performing. In their report, councils have discretion to provide additional information on local spend. As time has progressed since the 2014 act was introduced, there has been greater emphasis on the level of local spend. That very much ties in with the community wealth building objectives that many councils are seeking to achieve.

Melanie Mackenzie (Aberdeenshire Council and Aberdeen City Council): I agree with what Craig Fergusson said about transparency. I add that community benefits play a much larger part in procurement. Since 2014, we have continued to build on that, and it is a key focus of our procurement activity. We also think about environmental considerations and fair work.

The Convener: The procurement reports have been mentioned. Will you remind me whether they all follow the same format? Would it be possible for an outside organisation to compare what was happening across local authorities by looking at the reports?

Melanie Mackenzie: The Scottish Government lays out the format of the reports, and we are advised of the key elements that we must include in them. There is probably a bit of difference in the format and layout of the reports, but they include the same key information.

The Convener: You have both mentioned community wealth building. In our first evidence session of our inquiry, we discussed the pilots that have been running. There are five pilots, including one in Clackmannanshire. I do not think that you have been involved in the pilots, but have you had any feedback on them? They seem to be a way of trying to secure more local procurement.

Melanie Mackenzie: I have not been involved in the pilots and have not been privy to any feedback on them. However, Aberdeen City Council and Aberdeenshire Council have been doing work on community wealth building. They are looking at the development of action plans and are working closely with our colleagues in economic development. One of the councils has taken on a procurement development officer, and that person is a key contact between ourselves, local businesses and buyers within the organisation, which has been really helpful.

The Convener: Lynette Robertson, will you give us your reflections on what big positive changes have come about as a result of the 2014 act, and say whether there have been any challenges?

Lynette Robertson (City of Edinburgh Council): My view mirrors what other panel members have said with regard to transparency. A lot more information is available in the public domain now about what each of our organisations is delivering, and, with regard to upcoming opportunities for tender, more information than ever before is available to suppliers, which is a positive thing. We engage with suppliers a lot more. There are national "meet the buyer" events, and we also hold local events. We do what we can with local voluntary organisations and small businesses, and work to identify what additional supported businesses are in the community that

we can work with, given the changes in the legislation in that regard. There are a few positives there.

The challenges for us have involved the additional administration that comes with all that extra transparency, as we did not have in place management information systems and so on to capture the data and be able to report on it. As Melanie Mackenzie said, our reports follow a path, but we widen that path and extend it into other areas in order to capture what our commitments and policies are as an authority.

The Convener: Can anyone on the panel comment on whether there has been an increase in local procurement in their area? When the committee had a discussion about community wealth building, we heard that Fife Council has increased the share of local procurement in its purchasing, as part of a strategy. Is the position similar in your local authorities?

Craig Fergusson: In South Lanarkshire, our community wealth building strategy has been in place for more than two years. There are five key pillars across the strategy, and one of the central pillars is around local spend and using procurement to influence our ability to increase local spend levels.

One of the things that we focused on quite early on in that community wealth building journey was the arrangements around the quick-quote process. Prior to bringing in the strategy, when using that process, two out of five quotes had to be from local companies. We increased that to a target of four out of five. That was done very much as a way of bringing more local companies into the mix by ensuring that they could engage with the quick-quote process. However, despite that change, there are still challenges in trying to secure that level of interest.

Later in the session, we will no doubt come on to barriers and perceived barriers to public sector procurement, but we have certainly found that the focus that comes through having a stand-alone community wealth building strategy can give real impetus to a council to focus on what can be done locally. Of course, it is also important to address some underlying issues around the structure of local economies and so on, which can inhibit what can be done, to a degree, and we should bear it in mind that the general procurement frameworks still require that governance approach to be there so that, essentially, we cannot award a contract to a company just because it is local.

The Convener: Melanie Mackenzie and Lynette Robertson, have your local authorities managed to increase the amount of local procurement?

Melanie Mackenzie: Aberdeen City Council and Aberdeenshire Council have focused on

establishing dynamic purchasing systems across certain areas. Aberdeenshire Council in particular has had some real successes in that regard around, for example, getting small local businesses on to a minor works DPS, and Aberdeen City Council has established a training DPS and a DPS around employability. Lots of small local companies are on those arrangements, and lead services can run call-offs fairly simply. That seems to be working quite well.

In relation to larger contracts, we generally try to build in subcontracting. Although we are maybe not contracting directly with local suppliers, there are opportunities for them throughout the supply chain.

One of the challenges for us currently is that we have difficulty in capturing that information because we calculate our local spend based on where we pay the invoices to. We do not have a mechanism to capture how much subcontracting is done locally without going out to all our main contractors, taking in that information manually and doing the work on that. We have done pieces of that work, but it comes down to resource, time and the ability to manage it.

Those are examples of some of the work that we have done.

The Convener: Other members will ask more questions about local procurement, but, Lynette, without going into detail of the work that you have done, has the City of Edinburgh Council managed to increase the amount of local procurement?

Lynette Robertson: It has probably remained constant. The position was quite good to begin with, because there is good capacity for a lot of the services that we buy, such as professional services, because they are based in the city.

We have done more to ensure that that approach continues and strengthens. As Melanie Mackenzie said, that does not show in the data due to where payment of the supplier's invoice goes. Having to justify why we would not let a large framework, for example, has certainly pushed the boundaries. We have even gone to the stage of looking at smaller sub-lots so that microbusinesses can take part in some of the large frameworks that we are involved with.

The Convener: Thank you.

Evelyn Tweed (Stirling) (SNP): Good morning, panel, and thanks for your answers so far.

To what extent is there inconsistency in the way that the sustainable procurement duty is applied to contracts across public bodies? Is there inconsistency? If so, why is that the case?

Craig Fergusson: A range of tools is available to councils in the implementation of that duty.

There is a prioritisation tool and a framework tool. It is for councils to progress their way through use of the various support mechanisms. I dare say that councils are at different stages in their journeys of fully adopting all the principles and benefits of that duty.

In South Lanarkshire, we have moved to pulling together an overall weighting in contracts that encompasses fair work, community benefits and climate sustainability. We now say that we want to target 30 per cent of overall evaluation in the technical envelope towards sustainability. That ensures that, across the various tendering contracts that we put out, there is consistency of approach, in the sense that the 30 per cent provides a minimum.

Our approach also accepts that there can be variation. An example to illustrate that point would be tendering a waste-management contract. Arguably, sustainability is at its heart, as such contracts are about minimising waste and maximising recycling. In procurement, it is about providing guidance and a framework so that procuring departments can follow through and ensure that the contracts are delivering and meeting the aims and objectives of the duty.

Melanie Mackenzie: There is the framework around how we should apply the duty, but I will add that we very much target it around the needs of the local authority and what their local outcome improvement plans look like, and we consider how we can use outcomes that we are seeing through procurement activity to support some of the outcomes in those improvement plans. I think that we should use the framework, but each local authority will have their own needs in relation to where they want to target outcomes.

Lynette Robertson: I would mirror that view. From what I can see in my local authority, the duties are consistently applied, but we would also look at each individual requirement and what levers the council wants to apply. For some sectors, where there is a problem around gender pay or some other lever, we might want to increase the weighting that we apply as part of the tender process, but the duties are generally applied across the board.

Evelyn Tweed: Does the procurement duty need to be strengthened in any way to help you to achieve your goals?

The Convener: In the section on the sustainable procurement duty of Aberdeenshire Council's written submission, you made a point about the due regard obligation operating at a low level of spend, which is £50,000 for goods and £2 million for works. I do not know whether you want to say a wee bit about that.

Melanie Mackenzie: We said in our submission that the mandatory threshold of £4 million is quite high. Maybe there is scope to reduce that.

We give due regard to everything above £50,000, just to make sure that that is built into our standard tender documents and processes. However, it would be really helpful if the threshold for the mandatory application was lower.

09:15

Maggie Chapman (North East Scotland) (Green): Good morning. Thank you for joining us this and for your contributions so far.

I want to extend the conversation to look at how we can better use procurement to deliver the social and other policy outcomes that we might wish to deliver. Fair work and gender pay have already been mentioned. Melanie Mackenzie, in response to the convener's first question, talked about the considerations that you would give to environmental and fair work issues, for example. Will you say a bit more about that and how you balance the regulatory and legislative requirements of procurement with those policy objectives?

Melanie Mackenzie: Certainly. We would very much look at that on an individual contract-by-contract basis. Our general direction is set out in our joint procurement strategy, which is shared between the councils. There is also a community benefits and sustainability policy.

In terms of our process, we look at each contract individually, then look at where we could deliver the most outcomes. For example, do we want to focus more on community benefits in the circumstances? If it is a works contract, are we building environmental considerations into the specification? If we are, we can maybe focus the evaluation criteria on the community benefits outcomes and fair work.

Maggie Chapman: How would you decide how to weight those different considerations? Are you saying, "Right, in this works contract, we really need these social or environmental outcomes"? You said that you might write such considerations into the contract, but how else might you determine exactly the sort of fluffy outcomes that you are looking for?

Melanie Mackenzie: The project team would do that. If I take an example in Aberdeenshire, the team would work with our area managers. Wherever the project is based, they would look at what that area really needs and try to drive the outcomes through that. The project team would have those discussions, and that would be agreed, with some support from our community benefits and sustainability manager.

For larger projects, we draft a community benefits plan for inclusion in the tender pack. The plan sets out an approach in terms of those outcomes.

Maggie Chapman: Do you pull demographic and socioeconomic data into that decision-making process at the local level?

Melanie Mackenzie: Yes.

Maggie Chapman: Thank you. That is helpful.

Lynette Robertson mentioned gender inequality issues. Is procurement a vehicle for tackling social inequalities? What are the barriers to doing that? What do we need to do better?

Lynette Robertson: In driving those issues through procurement, we are trying to engage with the contractors and help them to understand that those things are important to us and are important for retaining a sustainable workforce. By including and highlighting those issues as being part of the fair work practices that we expect from employers, we would hope that, if they want to do business with us, they will take those issues seriously and be able to demonstrate that they do.

We face a difficulty in relation to data and its collection. We have publications at the national level for very large organisations but, when we are trying to target and support small to medium-sized enterprises to bid for work, we need to consider the proportionality of what we are asking for and their capacity to meet obligations to monitor, manage and change their work practices. We might refer such businesses to where they can get support and guidance on how to improve that.

Maggie Chapman: The issue of availability and collection of data will be a thread throughout this inquiry, I think. Would it be helpful if there was a standardised approach to data collection so that you did not have to have that conversation individually every time you have initial discussions with potential contractors and suppliers? If there was something that set out the data that you have and how you want it to be recorded for the contract, would that make things easier, or would that just be too cumbersome a machine?

Lynette Robertson: Various organisations have been set up to register employer information on quality standards, staffing, prompt payment statistics and so on. Again, it comes back to proportionality. Some large organisations will easily meet any obligation that you place on them, but the difficulty is that, if you are trying to encourage new businesses to grow and build capacity, you do not want to put too many barriers in the way and make too many asks of them that they will find difficult to meet. It depends on the maturity of the market that you are working with. If

the businesses are all different, you have to take that into account.

Maggie Chapman: I have a similar question for Craig Fergusson. Within the community wealth building framework and the pillars that you talked about, do you find it challenging to track the social, environmental and other outcomes of your procurement spend? What other barriers prevent us from getting the social or environmental outcomes that we might wish to get, given the current procurement set-up?

Craig Fergusson: It is worth acknowledging the overhead that can come with that. There is no doubt that obtaining that information and then maintaining it and monitoring the situation is resource intensive, particularly as you go down the supply chain.

There is also no doubt that using the power of procurement to bring about the changes that we are referencing is the way to go. Procurement is a very powerful tool for doing that. However, we need to balance the wider social benefits that we can get from procurement with the core deliverables of a contract. For example, if you are building a bridge, the contract specification will be critical to the roads department, but equally, perhaps more from a corporate and national perspective, there will be much wider objectives that should be delivered through the procurement. That is particularly the case with larger-scale procurement exercises, where the asks around community benefits can become much more meaningful and tangible.

Getting the data from contractors and monitoring it is challenging. We are looking to implement a dedicated community benefits reporting system in South Lanarkshire, which will definitely help. However, it is acknowledged within procurement and across our contract managers that that comes with an overhead. That is about making sure that community benefits that are promised at the outset of a contract award are followed through over the lifetime of the contract. We recognise that we can continue to make improvements in that area.

Maggie Chapman: The monitoring system that you have talked about comes with a not-insignificant overhead. Are there economies of scale that we might consider, if not across the whole of Scotland then at least regionally, in understanding what kinds of monitoring, data collection and evaluation are required, or does monitoring have to be carried out on an authority-by-authority basis, given local variation and specificities?

Craig Fergusson: I would suggest that that be done at the national level. That is where organisations such as Scotland Excel could have

a role, as they have visibility for awards on a countrywide basis. That depends on councils using Scotland Excel's frameworks—and it is the only provider of frameworks that councils typically access.

I think that there will be a bit of both: taking what may be available nationally and using the information that councils have. That would essentially mean having a further layer of information flow between contractors and local authorities. That is an important stage to see through, to ensure that we pool information to assess whether the policies are working and whether they are having the intended consequences.

Maggie Chapman: I think that there might be a role for tech innovation there somewhere, but I am not quite sure what that would involve. I will leave that for now.

Colin Smyth (South Scotland) (Lab): I will follow up on the point about monitoring fair work. It is fair to say that you assess the fair work commitments from the main contractor but, if you have awarded a contract, you do not monitor anything beyond that when the contractor subcontracts. Is that the case? Is that entirely a resource issue?

Craig Fergusson: It is certainly a resource issue. Fair work requirements will be built into typical tenders for regulated procurement, essentially through the scoring mechanism. We very much incentivise bidders to deliver as much as they can around the principles of fair work. Some of that may involve what a contractor is doing now in relation to fair work—family-friendly policies or recognising the role of trade unions, for example. It may well be that a contractor has a plan in place to meet more of the principles around fair work over a period of time.

On what we can do at the point of contract award, we can ensure that we have a prompt-payment certificate in place, signed off by the main contractor. That will have an impact in ensuring that subcontractors in the supply chain are paid within 30 days.

It is a matter of maximising what we can do at the point of award, with a recognition that any continual monitoring of compliance with fair work principles carries a significant overhead with it, particularly given the sheer number of contracts that councils typically award.

Colin Smyth: I presume that that is the case for the other witnesses, too.

Melanie Mackenzie *indicated agreement.*

Lynette Robertson *indicated agreement.*

Colin Smyth: For the *Official Report*, I can say that there were nods there: everybody agreed with that point.

On another area of procurement and fair trade, we heard evidence last week from the Scottish Fair Trade Forum. Scotland is a fair trade nation, South Lanarkshire and Aberdeenshire are Fairtrade zones, and Aberdeen city and the city of Edinburgh are Fairtrade cities. I suppose that, as part of your procurement strategy, you have to include a statement of general policy on fairly and ethically traded goods and services.

The Scottish Fair Trade Forum did a report a couple of years ago based on freedom of information requests to local authorities regarding spend on fair trade products. That was £2,644 for Aberdeen city for the 2021-22 financial year, £7,260 for Aberdeenshire, £3,756 for Edinburgh and £28,668 for South Lanarkshire—so South Lanarkshire was top of the table. However, I suspect that the level of spend on fair trade in each of your authorities is higher than that. Why are those figures not higher?

Melanie Mackenzie: Responding to FOI requests of that nature is very difficult because, in responding to such a request, we would generally look at the data in our finance system, which does not necessarily hold the level of detail that would allow us to identify items as fair trade items. We do not necessarily hold a register of the fairly traded goods that we may buy.

Colin Smyth: If you have a general policy commitment on fairly traded goods, how do you monitor it if you do not hold or publish that information in a usable way?

09:30

Melanie Mackenzie: It is difficult. Our strategy, direction and how we approach the specification of goods are clear and flow through, but we do not have the systems or the capacity to monitor and publish information on that. It can be challenging, particularly given all the other reporting requirements that we have in procurement.

Colin Smyth: I suppose that there is no requirement to publish the figures on fair trade procurement, despite Scotland being a fair trade nation.

Melanie Mackenzie: No, so we focus on where we are required to publish the data.

Colin Smyth: Does Lynette Robertson or Craig Fergusson want to add anything to that?

Lynette Robertson: We certainly support fair trade in Edinburgh, but we have monitoring issues with identifying the spend items. We promote Fairtrade fortnight and hold buyer events. We

have brought fair trade companies into our offices at Waverley Court for other suppliers, wider council buyers and service users to come in, see the products in person, test them and get to know the history behind them and why the goods are the way they are. Such events boost the sales activity from those suppliers. We have seen that happen.

We continue to support fair trade. One of my staff is also still on the Fairtrade city steering group.

Colin Smyth: If there was specific guidance from the Scottish Government that provided a definition of fair trade within procurement and, each year, as part of your annual report, you had to publish the level of fair trade spend based on that definition, could you do that with a change in the way in which you monitor it?

Lynette Robertson: It would take a bit of change in how catalogues were set up, for example, particularly when it comes to goods. We get a wholesale catalogue of goods from the Scotland Excel collaborative framework that we buy through. For some of the goods, the description perhaps does not fully explain the situation. We can try to put some kind of indicator on it but, when the catalogue gets refreshed, we are back to square 1, and we have to seek out the items and redo it, so it is difficult to drill into the information.

Colin Smyth: I have a final question about resources. Craig Fergusson has already touched on the resource challenge that you would have when going beyond primary contractors. You are having to make millions of pounds of savings every year. Has there been a drive to use procurement as part of those savings? Are local authorities absolutely pushing procurement as a way to save money? If so, that is, I presume, in tension with buying fair trade goods. Is that fair to say?

Craig Fergusson: It is fair. We could extend that conflict to buying locally, too, because that can be more expensive at times. There is a tension in procurement teams because there is obviously a drive to ensure that procurement brings about efficiencies. At times, that can point to the use of frameworks over other procurement arrangements.

In South Lanarkshire, procurement is a key area in which we have made savings over a prolonged period. Some of those savings come about from renewing a contractual arrangement and getting the benefit of a new competitive process being undertaken. They can also come about from considering our specification, volumes and the demand management arrangements that are in place across the council and certain category types. That will continue to be in focus, certainly

within South Lanarkshire, given the financial pressures that we have.

Melanie Mackenzie: Procurement is very much seen as an enabler to support authorities to find savings—in effect, to try to save money on existing third party spend. To do that, we will look for the best competitive rates that we can get. Particularly when you are buying goods, there is more of an emphasis on your outcome being mostly about the price rather than the quality of the goods. There will be a percentage weighted towards the goods but, ultimately, budgets are tight. Schools will say, “Why are we buying that from there? We could get it cheaper off Amazon.” It is a case of achieving a balance and getting the best outcome for everyone.

Colin Smyth: That line has been used in my local authority. People have said, “You can get the paper clips in the shop round the corner, so why are you ordering them from there?”

The Convener: The committee has an interest in the work that is being done to close the disability employment gap. Mention has been made of the dynamic purchasing system, but the Scottish Government has recently published guidance on a new system that puts a certain emphasis on supported businesses. That was published only in September. As local authorities, do you give consideration to supported businesses, or are you looking at ways to increase spend with supported businesses?

Craig Fergusson: Yes. South Lanarkshire Council has awarded one contract to a supported business in the past 12 months. The general feedback from that exercise was that it was extremely positive from the point of view of engagement.

I make the general observation that the number of businesses and sectors that are represented on the supported business framework is fairly limited. We would welcome further expansion of that to ensure that we can maximise the opportunities that are there.

Melanie Mackenzie: In the consultation response, we made a similar comment about the limitations of the supported business framework at the time.

We have taken steps to direct some quotes towards other supported businesses that we have become aware of through, for example, “meet the buyer” events. We are trying to stimulate relationships with, and to target opportunities at, supported businesses, although not necessarily through the supported business framework. We continue to look at that as a route, where it is appropriate.

Lynette Robertson: I agree. In the past, supported businesses have been quite niche businesses, so I think that there is room for development there. We use supported businesses in Edinburgh, but the demand for use will depend on what we are buying. Our nearest supported business on the framework is in Fife, although we support St Jude's Laundry in Edinburgh. If we cannot use them to full capacity, we do what we can to promote them through, for example, supplier newsletters and to raise awareness of them in other supply chains.

The Convener: Colin Smyth asked about cost. Are supported businesses competitively priced, or does use of a supported business involve the authority making a decision around costs?

Lynette Robertson: I think that there is a balance to be struck there, too. One of the supported businesses that we use does reupholstery of furniture. Because we do that on quite a small scale, we are able to directly award that contract through the reserved framework. However, there was an instance in which we used a supported business for courier services but the business closed, so we had to make alternative arrangements. Therefore, that approach does not always work in our favour.

It is important that we have a wider selection of supported businesses. Ultimately, in order to get the best outcome, we need to have several similar supported businesses that are in competition with one another. I think that there is always a willingness on the part of the sector to be flexible in relation to what we need and what we want—supported businesses are good businesses to work with.

Colin Beattie (Midlothian North and Musselburgh) (SNP): We have heard that it can be difficult to understand whether a product or service that has a higher up-front cost might deliver value in the medium or long term. To some extent, procurement is used to manage costs, and there is a bit of a conflict between paying more up front now in the belief that, in a few years' time, you will obtain better value for the product or service in question. To what extent do you make decisions that capture that, so that the life of a product or service is properly assessed in terms of value for money? Are there barriers to that? Perhaps Lynette Robertson can start.

Lynette Robertson: I think that you are talking about whole-life costing. When it comes to buying products, in particular, we want to consider the product's lifespan, whether it will require maintenance over its life and whether it will be possible for it to be reconditioned or recycled at the end of its life cycle, or whether we need to look at disposal costs. When we buy complex products, or even basic products such as cars and vans, we

need to look at the whole-life cost of the product, not just the initial purchase price.

As we all know, you can purchase something that looks like a really good deal, but, further down the line, you can have problems with faults or issues with the system, and the maintenance itself can be costly. Quality of product is important, so we might pay a bit extra for that if, over the life of the product, it will mean fewer repairs and less maintenance, and we will not have a huge cost at the end.

Colin Beattie: Do you have a process in place for that?

Lynette Robertson: We capture that in individual procurement strategies for the quantities that we purchase.

Colin Beattie: Are there any barriers to that?

Lynette Robertson: It would depend. We have been looking at some new technology, for example, for which the disposal arrangements at the end of the life cycle are currently unknown. Sometimes, there are barriers and we just cannot get the answer, so we need to engage more with the market in order to understand what we can do.

Melanie Mackenzie: When the changes in the regulations came into force, at that point, we could no longer look only at price. I think that the majority of procurement teams welcomed that. Building on the element of quality and price comparison across all types of contracts is valuable, and we certainly do that in looking at products in particular. It is a case of not just buying the cheapest, but looking at the balance around the whole-life costing and what will last. Ultimately, if we specify something that is a basic item, we might buy 10 of them, instead of two, provided that it has the correct specification. That is a key consideration in our procurement processes.

Where that can sometimes fall down a little is in relation to some of the national frameworks, in which there is a drive to show value for money. The suppliers that bid through those arrangements sometimes feel that they need to put forward quite low-priced products to be able to get the business of a local authority. In reality, the local authorities do not necessarily buy those core items—we would use those arrangements to buy non-core items.

Colin Beattie: The process would rely, therefore, on some kind of knowledge base that would be applied to a product or service. Is that knowledge systemic? Does that mean relying on the people in the area of procurement to have that knowledge? Do they keep files? How do they do it?

Melanie Mackenzie: For our own councils, we work closely with the lead service areas that are

buying the products and that have the technical expertise. Where we have any commodities that involve cross-council purchases, we would take relevant people into that process from across the council.

Craig Fergusson: From memory, I can give one practical example of the application of the whole-life costing concept, which relates to the purchase of wheelie bins. We worked with the waste service, which could demonstrate that buying a slightly more expensive version that was made with thicker and more durable plastics would mean that we would get a longer-lasting product.

09:45

As for barriers, I go back to the earlier point about the need to drive efficiencies through procurement. A definite risk to applying the whole-life costing concept relates to the budget that we have in-year. We have to ensure that we keep our spending within that budget and that we look to drive efficiencies in anticipation of future budgets being reduced. There is the old adage that buying something cheap is a false economy, but, ultimately, a wider financial pressure is coming to bear that might put pressure on whole-life costing. The concept is absolutely sound, but, as I have said, I think that it might come under increasing pressure.

Colin Beattie: I want to cover a slightly different issue. We have heard about people's experiences of framework contracts and lotting. How much of a challenge is it for you to make such opportunities accessible to smaller regionally focused firms, while at the same time sharing the risk and ensuring good value? I will come back to Lynette Robertson on that.

Lynette Robertson: Recently, we have had a few experiences of setting up frameworks for some very small businesses or sole traders within the local building and education sectors. When you break the component parts down to quite small areas to allow those with a lower turnover and capacity to take part in the competition, you need to upskill those organisations to enable them to go through the bidding process. As has been noted in some of the evidence that has been submitted so far, these things are quite complex and difficult for organisations. We use language that they are not familiar with, and there are forms to be filled out that they have never filled out before.

As a result, we make use of and engage with, for example, the Supplier Development Programme, which runs training sessions for organisations that have not gone through the process before; indeed, our staff join up with the SDP team to do that sort of thing. We have put

together a mix of YouTube videos and other things to help people to understand the process, including the evaluation process, how decisions will be made to support their businesses and what feedback they will get. Doing that adds a lot of work for us, but we consider it to be worth while, if the objective is to support smaller businesses to gain contracts through the local authority.

Colin Beattie: We have heard a great deal about accessibility being an issue, particularly for smaller businesses that do not have the resources to fill in your forms and comply with all the requirements. Are you satisfied that what you are doing is sufficient to open up that process?

Lynette Robertson: My answer to that is that I think that we are doing as much as we can within the resources that we have. All of us could always do more if we had more resources.

Craig Fergusson talked earlier about the quick-quote process, which has been designed to be a much more streamlined process for low-value purchases. It can help with one-off purchases, as well as helping small businesses at that level. The £50,000 threshold for goods and services, which was mentioned earlier, is actually quite small. Over a three to four-year term, you would be talking only about just over £12,000 a year, which is not that much. However, although such contracts should attract very small businesses, there are a lot of barriers for them to jump over and hoops to go through to understand the process and to apply their technical ability to something that they have never bid for before, when we could be steering them towards the quick-quote process and making things so much easier for them.

There is an issue to do with the threshold and the flexibility that is available to us to support smaller businesses. Larger businesses are used to the process. They bid for many public sector contracts—they have teams that do that, or they employ teams to do it for them.

The organisations that take up the offer of help show improved results. There is also new guidance about the supplier journey, which gives good information. The problem is that small businesses and one-man bands have limited time to read all the guidance or to take up the available support, so I understand why it is difficult for them to do so.

Melanie Mackenzie: I totally agree with what Lynette Robertson said. In our organisations, we are doing as much as we can with the resources that we have. I spoke about our recent work with our economic development colleagues. One person, in a role that is dedicated to supporting businesses, has been working with local businesses to help them to navigate the single

procurement document, which is something that we get quite a lot of feedback about. It is a complex document that businesses find it difficult to complete. That one person has supported about 100 businesses in the course of a year, by signposting them to specific training that is provided by the Supplier Development Programme or by meeting people on a one-to-one basis and taking them through tender documents. Through that particular role, we have been able to provide a range of support.

To pick up on what Lynette said about thresholds, I think that an increase in the threshold for goods and services would be incredibly valuable. If we were able to direct more procurement through the quick-quote process, we could do that locally. It is a streamlined process that makes things much simpler. That is a key point for us.

Craig Fergusson: I certainly concur with what my colleagues have said. I also emphasise the important role of the Supplier Development Programme, which is in a key position and can see and understand how councils operate, while also having close links with business. The Supplier Development Programme is based in South Lanarkshire, and we frequently work together to deliver things such as talking tender sessions, when local companies are invited to come in to receive core training on how to prepare a bid and what to look out for, or how to register for and use Public Contracts Scotland. The role of the Supplier Development Programme is pivotal.

Councils can still use their own social media channels and websites to ensure that their contract registers are fully visible, so that businesses can see what is coming in the next two years. We mentioned the annual procurement report, which has an appendix that sets out the delivery plan for the next two years and itemises the individual contracts that we anticipate will come up for renewal.

There is a lot of information out there, although, to a degree, businesses have to seek it out. It is a marketplace, and we must ensure that we do as much as we can to make the opportunities known.

Last year, South Lanarkshire Council looked at the potential for more local procurement of food. We sent out a questionnaire to hundreds of companies, but only 22 got back to us to express an interest in providing food to the council. When we whittled that down, there were some quite niche products. We could see a match between what those companies or suppliers were prepared to offer us and what we were looking to procure. That is a live example of how proactive we have been in engaging with individual sectors.

We take a far wider approach to training. We are trying to bring in as many businesses as possible, but we recognise the resourcing constraints that some businesses face in fulfilling the requirements or even, at the front end, in understanding how the process works. There is on-going work for us to do to ensure that we break down those barriers and take away some of the perceptions about how difficult procurement can be in the public sector, while ensuring that we put in place safeguards around insurance and financial standing, given that we are using public money.

Brian Whittle (South Scotland) (Con): Good morning. I am glad that Craig Fergusson raised the subject of public food procurement, as it happens to be one of my big interests. I go back to the idea of balancing higher up-front costs with long-term objectives. If there was ever an area where that aspect was very much in evidence, it would be locally procured food.

We talked earlier about the transition to net zero. Travel miles for food is a big issue, as is fair trade and ethical produce. We charge our farmers and food producers with maintaining the highest standards, yet the last time that I looked through the Scotland Excel contract, I saw that the amount of food that is procured from within Scotland was substantially less than we might imagine.

Practically, how easy is it to procure food locally? I am sure that we all want to have the highest standards of food in our schools and hospitals, but what are the practicalities of delivering that, either through one Excel contract or through many contracts locally? When I last looked at food procurement, I saw that there was huge variation between one council and the next in terms of the amount of food that is procured locally.

How difficult is it—you alluded to this, Craig—to deliver practically on what should be a high priority?

Craig Fergusson: Practically, it is very challenging. Against a backdrop of nationwide nutritional standards that have to be met, a less risky approach to procurement has perhaps been taken, involving the use of single suppliers that can guarantee that those nutritional standards will be met. With food procurement, as with most other areas, there are inevitably economies there.

However, there is an important point to make with regard to subcontracting opportunities throughout the supply chain. We make sure that we highlight to local businesses the available opportunities, including through the Scotland Excel contract. It is an area of spend that is not particularly well captured. With regard to food procurement in particular, there are definitely

challenges. The work that we have done in South Lanarkshire over the past 12 months has certainly pointed to what seems, on the face of it, to be quite limited interest from local providers in contracting directly with us, but we know that there are a number of farms across Lanarkshire that supply directly to Müller. It could be convenient for some local providers to be part of the wider framework arrangements, whereby they are part of the subcontracting chain and do not have to procure directly with the local authority.

As soon as you broaden your supply base for food, there is an additional overhead from a facilities management perspective with regard to ensuring that nutritional standards can still be met. Typically, there will be a standard menu provided across most of the school estate, so buying in from more suppliers would potentially make that more challenging. In addition, businesses need to have various health accreditations. Again, that potentially becomes more complex the more suppliers there are in the chain.

We are not finished with that piece of work. A total of 22 suppliers indicated a willingness or an interest in engaging further, and colleagues are taking that up as a separate workstream. We are also looking at learning from other councils that are perhaps further ahead in their journey on local food procurement. The key takeaway for me with regard to what we have done so far in this area is that the level of interest that we got from providers was somewhat disappointing.

Brian Whittle: Perhaps Melanie Mackenzie can add to that. As I said, there is big variation across councils. South Lanarkshire Council is one of the councils that I have looked at. I have also looked at East Ayrshire Council, which is the gold standard; I understand that it is under real pressure to maintain that standard while balancing its budget.

Craig Fergusson mentioned the idea of maintaining a high standard of food, which, is potentially easier through a central contract. I suggest that the highest-quality food that is kicking around is produced by our own food producers. The issue is how we get it on to the plate. In terms of risk, is the ability to manage multiple contracts a real barrier to progress?

10:00

Melanie Mackenzie: Absolutely. Resource and capacity are a real issue. Generally, at the operational level, management of food contracts lies with catering teams in councils. They have limited resources to manage multiple contractors, especially given the level of information that they are required to have about menus and allergens. As is the case for everybody, financial challenges

have impacted on our ability to do things as we would like to do them.

To pick up on something that Craig Fergusson said, I point out that we quite often look at subcontracting opportunities. We work with a main provider of food but ensure that, through that route, we are able to utilise produce from farms in Aberdeenshire, for example. We have had some success in that.

In recent years, some of our local food companies have not been interested in servicing the council's business directly because doing so is a huge logistical challenge for them, given that we have in excess of 250 schools in Aberdeenshire. The logistics in servicing a contract of that size would be a challenge. Of course, we could split the contract into areas, but how small would we have to go and what would the resource impact be?

That is why we have focused more on subcontracting, because it is kind of a win-win. Companies are getting our business through the supply chain, and we are able to support them at the local level. Evidencing that can be a challenge, however, because we are paying to different invoice addresses and are not really capturing that information anywhere.

Brian Whittle: I agree that it is difficult to get evidence. I did it myself in 2016, and it took me six months to gather all the evidence together. The reality, as I said about the Excel contract, is that surprisingly little food is procured locally.

Craig Fergusson said earlier that it is easier to contract from a company such as Müller. I do not want to pick on those guys, because they could be brilliant, but it is easier for farmers to supply to Müller.

We were talking about fair trade. I am very interested in fair trade for our own food producers, who might not necessarily get the fair price that we want farmers to get. There is that extended tension.

From your perspective, how can we make sure that there is a system in place that tracks where food comes from? How do you innovate? Obviously, there is risk aversion. How do you innovate within the budget that you have?

Lynette Robertson: Our situation is a bit like the one that Melanie Mackenzie described. Our catering manager leads on all our food purchasing, although we work with them to set up frameworks. We use the Scotland Excel framework, because it is a national framework, but we also use a local framework; we have our own framework for fruit and vegetables, baked goods and so on.

On the earlier point about carbon miles, we can put greater emphasis on food miles as a lever to ensure that products are not travelling huge distances. We recently had a meeting with the food industry in Edinburgh, at which we talked about that and about how we could improve local purchasing of food products. I was quite impressed by the statistics that our catering manager had, so if I had known that we would be speaking about food today, I would have brought them along. Quite a high volume of locally produced foods are being purchased. He reiterated that, in relation to local supply, the sheer demand—the volume of product—across the schools and care homes in the city makes it very difficult for smaller producers to supply them independently, so having them work with larger contractors that can support the logistics of deliveries, rather than there being multiple deliveries coming into a school at one time, is key.

The Convener: Does the size of the authority—Edinburgh is quite a large authority—make a difference? Is it the case that it is easier for smaller suppliers to provide to smaller authorities, but there is more bureaucracy and a bigger burden on the authority in procuring from those smaller producers?

Lynette Robertson: I do not think that it is much of a burden for smaller authorities to procure from smaller producers, although, in terms of resources, it is easier for them to link into the national frameworks. I am sure that if there are, for example, farmers in their locality who have the capacity to meet their demands, there is a way to overcome obstacles.

Brian Whittle: I will leave it there and come back in later if there is more time.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Good morning.

I want to ask you specifically about your experience of using the Public Contracts Scotland website. It has been on the go since 2008, and although there have been improvements in recent years, I am interested to hear your experiences. Last week, we heard from suppliers that having one portal is an improvement on what existed before—it is more transparent and it opens up opportunities for more suppliers—but it has been a bit clunky, although it has improved. What is your experience of using it?

Craig Fergusson: From a practitioner's perspective, our procurement team is very au fait with the portal now. It is certainly a significant improvement on what we had previously.

I think that bidders and prospective bidders have a perception that the portal is not very user friendly. Some of the language could be simplified to a degree, although I acknowledge that that is

not possible in every case. An underlying point is that procurement can be a fairly complex world, regardless of much effort goes into trying to simplify it.

Given the time that has passed since the website was introduced, there is an opportunity to look at how it can be made more user friendly: it is important that we take on board feedback from bidders and prospective bidders on that. I suspect, however, that we will be able to only go so far to simplify it. Nonetheless, there is an opportunity to see what could be tweaked in respect of graphics, how tables are presented and how we use bidder guidance in the various forms, which would perhaps remove some barriers.

Gordon MacDonald: As a buyer who uses the portal to put up contracts for suppliers, how easy do you find it to use?

Craig Fergusson: Our team is very experienced with the portal now, and I do not get feedback that suggests that we find it difficult.

The one area that springs to mind is how we include bidder guidance in the various forms. Presentation of that guidance is not always great. Although we can tweak certain areas, there is not a great deal of flexibility within some of the fields in PCS. Flexibility must be balanced against ensuring that there is a standardised approach across the public sector. However, I would say that there is an opportunity to consider what improvements could be made.

Melanie Mackenzie: I echo what Craig Fergusson said. As buyers, councils have devolved procurement; we have people within services who have authority to procure on behalf of the council. The PCS system is really simple to use, on the buyer side.

Improvements could be made in the supplier-search function. How that works is a key issue for us—it is not always easy to find suppliers in a particular category. The tool is not that useful, so we go more by local knowledge.

Gordon MacDonald: One of the suggestions that we heard last week was that commissioners could be allowed to search by type of organisation as a way of improving their social impact. Would you all find that useful?

Melanie Mackenzie: Yes—certainly. Indeed, we have had feedback on that at the local level within the council; people have said that that would be useful—in particular, in relation to issuing quick quotes. We might have some knowledge of suppliers in a certain area, but it is always useful to have another look to see whether anybody new has joined the PCS system since we last did the exercise. We would certainly find such a search very valuable.

Gordon MacDonald: Do you want to comment, Lynette?

Lynette Robertson: Likewise, I think that our staff are now pretty au fait with the system; we know how it works and what its quirks are.

The supplier-search function has been an issue for a long time. For example, some suppliers do not realise that their registration lasts, I think, 12 months and that it lapses and expires unless they refresh it. Often, we hear suppliers say that they are on PCS, but we have to tell them that we cannot find their details there. We must ensure that people are aware of how the system works and of the fact that their details will not be available always. Ensuring that suppliers keep their details up to date is a challenge, too.

Gordon MacDonald: You said that the system is fairly easy to use from the buyer's side; according to the customer satisfaction survey, it is moderately easy to very easy to use for the majority of, although not all, suppliers. However, there is an issue for microbusinesses, because they lack capacity. Lynette Robertson has talked about "meet the buyers" events, supplier development programmes and all the rest of it, but is there enough emphasis on how you support microbusinesses to use the public procurement system, or do you feel that that is not your role?

Lynette Robertson: We jointly deliver sessions on how to use the system—what buttons to click and where to fill in details. I think that there are opportunities for support. We also offer drop-in sessions for suppliers to contact us at any time, if they are having difficulty, and the systems have helpdesks and provide support for people who are struggling. If the clock is ticking—say someone has something to submit and they are struggling with a file—there is someone whom they can contact and ask, "What do I do about this, because I can't get it to work?" I think, therefore, that there are support mechanisms.

The issue, I think, is that there are actually two systems—PCS and PCS-Tender; one is fully electronic and the other is where people download documents then upload a response. That system is probably a bit more straightforward—

Gordon MacDonald: Are the two systems used for different things, or are they different stages of the same process?

Lynette Robertson: They both support similar processes, but notices out to the market are done only on PCS, because it also has reporting functionality. The aim of PCS-T was to enable use of a fully electronic system. We talked about the single procurement document earlier; once you have filled out your SPD and are registered on that system, the form is there for ever more, which means that a supplier can go in and refresh it the

next time they want to use it instead of starting from scratch. It is designed to make things a little bit easier, although organisations that are not technically minded might struggle with it.

Gordon MacDonald: Craig Fergusson talked earlier about perceived barriers. Is the website one of those perceived barriers for small businesses?

Craig Fergusson: Are you talking about PCS?

Gordon MacDonald: Yes.

Craig Fergusson: In a survey that we carried out 18 months to two years ago, to which several hundred local businesses responded, training certainly came up as a perceived barrier, together with capacity. The issue of training could, I think, be reasonably extended to the question of businesses—smaller ones, in particular—just having the confidence to participate in public sector procurement.

10:15

There are training and webinars, but we must ensure that we are continually advertising, to local businesses, availability of those routes. Some will see training as an almost permanent barrier because it is not how they do business day-to-day in the private sector, but I think that it is a perceived barrier. We have learned that companies' confidence naturally grows, once they get the experience of having one or two tenders under their belt. On the flipside, I appreciate that making the effort to tender as one of 10 or 20 companies that are bidding then not winning the contract brings a level of disappointment that might put a company off participating again.

There should be a balance between ensuring that we are accessible, having the appropriate safeguards in place and not using overly complex language, where that can be avoided.

Gordon MacDonald: You made a point about a small business being one of 10 companies bidding for a contract and being put off because it does not win. Is feedback given to suppliers that fail to get a contract, as part of a learning process to help them to improve their bids?

Craig Fergusson: That is a really important phase in our procurement process for regulated tenders. If an organisation is not successful, we give it the breakdown of its scores on the technical and commercial sides. We also give the equivalent scores for the winning bid and a commentary against each individual element; there might be four or five elements in the technical section, for example. We give feedback on why the winning bid scored more than the bid to which we are responding.

That is a key change that we have brought in recent years. The general response is that companies find it helpful to have that level of detail. We can also offer individual conversations, if companies want that. That is part of their learning and ours, as we ensure that we are giving an appropriate level of detail and feedback.

The Convener: Murdo Fraser and Kevin Stewart have questions.

Murdo Fraser (Mid Scotland and Fife) (Con): All the questions that I was going to ask been covered by others, so, in the interests of time, I am happy to move on.

Kevin Stewart (Aberdeen Central) (SNP): I apologise for being a bit late today

I will concentrate on some of the things that others have said about bureaucracy during the course of the inquiry. A lot of folk have said that things work well until the lawyers and accountants get involved in the tendering process. I apologise to any lawyers or accountants who are here.

In my council experience, which is a while back now, I definitely saw aversion to risk, especially in my early years, before the formation of the Aberdeen city and shire joint procurement unit. Do the aversion to risk and the bureaucracy still exist, or have they lessened over the years?

Craig Fergusson: As an accountant—*[Laughter.]*—I can say that there is still a need to ensure that we are safeguarding public funds. A key area of focus is appraisal of the financial standing of an organisation, which plays a very important role in higher-value tenders by providing a safeguard for the contracting authority and by ensuring that there is due diligence. In a scenario in which a company fails a financial appraisal, with the input of accountants we look at what mitigation could be put in place. If a company wants payment in advance, we might decline that and instead use payment in arrears, which essentially de-risks our cash flow. For a longer-term contract, we might turn to a parent-company guarantee or a performance bond. A company failing a financial appraisal does not have to be the end of the journey.

It is about checks and balances. There are parallels with health and safety, in that the approach could be perceived to be bureaucracy. In my view, however, the controls are an important part of the overall procurement governance process.

Melanie Mackenzie: It is important that we have controls in place, but we need to be risk aware as opposed to risk averse. With regard to the financial aspect, for the councils for which we use the joint procurement service, we tend to shy away from using turnover as the key financial

criterion for everything; we also apply credit checks and so on.

We have some involvement from finance and legal colleagues for larger contracts, in particular. In addition, we try, wherever possible, to adopt a set of standard terms and conditions. Rather than what happened in days past, when everything had a bespoke set of terms and conditions, we have tried to drive forward a bit of simplification—for example, through cutting the number of documents. We have tried to section things clearly into small chunks so that it is easier for bidders to complete the process, rather than their being overwhelmed by opening up one document that is 80 or 100 pages long.

We have made some relatively simple changes, but they have been quite effective for our procurement. We look through that lens whenever we try to make changes to our documentation for suppliers. For example, we ask, “What if I was a sole trader looking at these documents, and don’t have much time?”

Lynette Robertson: I agree with what the other witnesses have said. We look with our finance colleagues at the risk around a contract. It can also help to have a conversation with them about the market in which we are working, and about what their capability is. Rather than taking a standard one-size-fits-all view of turnover and ratios, we consider whether something is the norm in a particular sector, and what we could do to mitigate risk.

The same goes for insurances. There are discussions with our insurance manager about setting the level for low-level, low-value spend and whether the level is appropriate and proportionate. Sometimes, in particular if we are dealing with a large framework, it might be pretty high value, but when we break it down into its component parts, the low-level lotted delivery values might be quite small. Therefore, rather than setting an overarching level for the whole framework, we look at the component parts and break it down.

Kevin Stewart: Melanie Mackenzie mentioned what sounds like continuous improvement in trying to get procurement right. Would it be fair to say that all your authorities are doing similar work? Yes or no.

Craig Fergusson: Yes; we absolutely do that, within the confines of the procurement regulations. Risk appetite, to which you referred, is also certainly a factor.

There is a general point to make about our trying, where we can, to simplify both the process and the language that are used. I go back to the point about bidder feedback, which is important in trying to ensure future participation and allowing bidders to refine their approach.

Kevin Stewart: Lynette—yes or no?

Lynette Robertson: Yes, absolutely. There is continuous improvement.

Kevin Stewart: Grand.

I will go back to the commentary—I think that it came from Craig Fergusson—about national frameworks and value for money. I have a general question about Scotland Excel. What are your feelings about that contract? Are they good, bad or indifferent?

Lynette Robertson: There are good things there. If we are all buying the same thing, it makes sense to pull together in a collaboration. However, we do not use all the frameworks, because we find that for some items, and certainly for some services, a focus on local needs is our priority, and it is easier to drive that forward if we have complete influence over the end-to-end process.

Kevin Stewart: Do you feel that you have a choice as to whether to do that, or do you sometimes feel pressured to join the national frameworks?

Lynette Robertson: Recently, there has been a push for us to use the national frameworks more. Ultimately, though, I will always take the view that I will do what is right for our authority.

Kevin Stewart: Thank you.

Melanie, do you wish to comment?

Melanie Mackenzie: We have always been supportive of Scotland Excel and the collaborative approach being taken in respect of what we are buying. After all, we are, at sectoral level, all buying the same thing.

Perhaps not enough is being done at times to drive the collective approach to specification. From time to time, frameworks are established, but local authorities still buy different items. I certainly agree that there has recently been more pressure to use the national frameworks. We consider their use to be an option in any procurement strategy, but we have always seen it as that—an option—and we test it against the local market. All those things are really important in delivering best value for the council.

The other thing that I will highlight in relation to national frameworks is the community wealth building agenda and the involvement of local suppliers. If we are to have national frameworks, how do we get our local suppliers into those agreements? How does that engagement happen?

Kevin Stewart: So, ultimately, do you feel that you have choice, but you still feel pressured? I am not putting words in your mouth.

Melanie Mackenzie: There has certainly been a degree of pressure recently.

Kevin Stewart: Thank you very much. Craig, would you like to comment?

Craig Fergusson: My feelings in that respect are good. After all, why do it ourselves, when there is already an offering from Scotland Excel?

We use the vast majority of Scotland Excel's frameworks, but I concur with colleagues about the pressure that we have felt recently, even to update our standing orders to acknowledge that we will consider Scotland Excel frameworks prior to agreeing a route to market. We declined to do that because we do it anyway; it was already part of our custom and practice. We look at what Scotland Excel has available and, ultimately, if it does not suit our purposes, we look to other framework providers.

Kevin Stewart: Craig Fergusson mentioned the two ominous words "standing orders". We could probably have a week-long session on council standing orders when it comes to procurement. With that, convener, I think that I had better stop.

The Convener: I have a final question that I suppose touches on some of the issues that Kevin Stewart raised with regard to bureaucracy, and touches on Gordon MacDonald's questions about the website. Scottish Chambers of Commerce told us that artificial intelligence is a possible solution in making things more streamlined, matching contracts and making systems more efficient. Are local authorities having conversations on use of AI to improve the systems?

Craig Fergusson: No—there is no such conversation happening at the moment, although I am sure that it would serve a purpose. We are certainly trying to ensure that our register is freely available and has search functions. I repeat my earlier point that we are on a journey of continuing to improve our openness and transparency and ensuring that companies have free access to information, so that might well be a conversation that we will have in the future.

The Convener: Does anyone else want to comment?

Melanie Mackenzie: We have not, up to this point, considered using AI. Our council is part of a co-pilot, which we might use to drive some improvements around documents and so on. My answer to your question, though, is that we are not using AI in some overall way.

The Convener: It would be interesting to know more. We have had debates in Parliament about the extent to which AI is starting to be developed in the public sector. I know that we are in the early stages of the technology, but as has been said,

there is awareness that it could be part of the solution.

Lynette Robertson: We are certainly not using AI in Edinburgh.

The Convener: Thank you very much for your contributions to our inquiry—they are much appreciated.

I suspend the meeting briefly to change over witnesses.

10:29

Meeting suspended.

10:35

On resuming—

The Convener: I welcome our second panel of witnesses. I am pleased to be joined by Gordon Beattie, who is director of national procurement at NHS National Services Scotland; Stephen Connor, who is senior procurement manager at Advanced Procurement for Universities and Colleges; and, from Scottish Water, Rob Mustard, who is director of capital investment, and Joe Rowan, who is general manager of procurement.

I will start with a general opening question. As you know, this is a short inquiry into the Procurement Reform (Scotland) Act 2014. We are interested in key changes in procurement that were achieved through the act. You could start by outlining some of the key challenges; other members will pick up on other issues.

I come to Gordon Beattie first.

Gordon Beattie (NHS National Services Scotland): Good morning. I have been in national health service procurement since 2001 and I was involved in some of the earlier discussions on small to medium-sized enterprise involvement. I have seen a big change over that time—it has been a positive move.

The act embodied a lot of the good practice that was going around at the time and has given us a platform to build on that. We have increased our visibility, which was a key element in the question of what we needed to buy. We make that obvious, hopefully, to businesses in Scotland and the rest of the UK, and now beyond that, which allows people to plan to bid for our work. That has opened up a lot.

We have brought in new policies to be delivered through procurement. We can do that because we have the ability to ask for those things in our specifications, and we can therefore focus on changes, and delivering things like sustainability, community benefits and fair work practices. There are a lot of good things that we can do with that.

My area is national procurement. We do national contracts that are common requirements across all of our health services, so they tend to be larger-value contracts. About 70 per cent of our spend is on high-end medicines, medical equipment and digital solutions. Within that, though, the primary and overriding requirement is for patient safety and delivering good patient outcomes. In that respect, it is fairly complicated. What we are asking for is fairly specific and requires us to assure ourselves that the products that we buy and the services that we contract for can meet those requirements.

The Convener: I think that you said that you are responsible for 70 per cent of procurement. Just so that I understand how NHS procurement works, can you say whether the boards have individual procurement?

Gordon Beattie: Yes—that is the rough balance. We work collaboratively across the health boards. I do not line manage the rest of the procurement services in Scotland. Our health boards have their own heads of procurement, who report through their own area. Our health boards take our national contracts and implement them. They are our change agents in hospital areas, working closely with clinical, technical and estates teams to deliver the outcomes of the contracts.

The Convener: Stephen Connor, what has been positive about the 2014 act and where might there be areas for improvement?

Stephen Connor (Advanced Procurement for Universities and Colleges): Good morning, everybody. The impact of the act has probably been in three main areas. With the lower threshold, a lot more spend is now regulated. Spend that previously was not regulated is now regulated.

There has been a big impact on transparency and reporting requirements, and, obviously, a major part of the act has been about sustainability. All of those aspects of the act have had an impact on the university and college sector.

Gordon Beattie mentioned raising the visibility and profile of procurement. That has probably been the biggest area of impact. The 2014 act set out as legislative requirements a lot of things that were already best practice, such as having a procurement strategy and reporting on procurement. That has been the biggest change.

Related to that, the 2014 act has done a lot to raise the bar with regard to the way in which procurement is undertaken across the sector. A lot of organisations that were already undertaking good procurement would have continued to do that, regardless of whether the 2014 act had been passed, but the fact that the legislation was put in place forced a lot of people to address

procurement in a way that they perhaps would not have done previously.

I highlight that the 2014 act was not introduced in isolation. A key part of its effectiveness has been the fact that it is part of the wider public procurement reform programme and all the transformation that has gone along with that, driven not only by the Scottish Government but through the centres of excellence. That has been a key driver with regard to ensuring that the act has had an effect.

The Convener: I come to Rob Mustard and Joe Rowan. As I understand it, Scottish Water as a body is not identified in the 2014 act, but it follows what is in there, which would suggest that you are quite keen on the act. Do you want to talk about the positives of the act?

Rob Mustard (Scottish Water): Okay—I will kick off on that.

As you pointed out, convener, Scottish Water, being a utility, is covered by the Utilities Contracts (Scotland) Regulations 2016, so we work to those regulations. As a minimum, Scottish Water ensures that the general duties in the 2014 act are incorporated in our procurement processes and outcomes, on the basis that there is no conflict with our duties under the 2016 regulations. I will hand over to Joe Rowan in a moment; he can touch on some of the detail in that regard.

To build on what my colleagues to my right have said, Scottish Water, as a utility that covers the whole of Scotland, takes its procurement and processes very seriously. The type of work that we do and procure ranges from significant construction and civil engineering all the way through to digital and that type of activity. Again, that is covered by 2014 act, but we do that through the 2016 regulations. Things such as transparency, consistency and our ability to attract significant contractors as well as smaller companies with expertise in Scotland are part of the fabric that makes up our procurement in Scotland. I note that 70 per cent of our supply chain consists of small and medium-sized enterprises across Scotland.

Joe Rowan may want to touch on some of the specifics.

Joe Rowan (Scottish Water): Good morning. With regard to the application of the 2014 act, as Rob Mustard said, we are not a contracting authority under the act, but at the time that it was passed, we agreed to take on board the general duties and put them in as better practice in our procurement processes. We do that for all our procurement.

We have been looking more at how we can get best value out of that, and how we can make the

duties come alive in terms of outcomes. Our focus over the past eight or nine years or so has been on how we get those outcomes. In general, the 2014 act has been a very useful framework to enable us to go after those positive outcomes.

With regard to challenges, Scottish Water is not listed in the 2014 act, so it would be unfair of me to speak to the detail of it. We do not find the duties particularly challenging, nor do we find the reporting elements that we have to undertake bureaucratic. We find that those things promote better practice.

We do not really have any negatives to set out, other than to ask whether, 10 years later, it is time to look at the 2014 act with regard to whether there are other things that need to be considered, reinforced or added. After 10 years, it is probably the right time to do that, and to ask whether the landscape or the priorities have changed, and whether there are other things that procurement in the public sector can do to get more value for communities.

The Convener: Is Scottish Water currently going through such a process? Do you want to highlight to us any areas in which, 10 years later, improvements could be made?

10:45

Joe Rowan: We need to step back and reconsider the area of sustainable procurement—which we may come on to discuss—as the landscape has changed since 2014. Scottish Water has a net zero target and has plans to deliver that. We use the idea of a sustainable duty but if that was refreshed a little, it could really enable us to push towards our net zero target, with regard to our supply chain.

Murdo Fraser: Good morning. This committee, and our predecessor committee, have been interested for a number of years in how we can use procurement to support local economies. Gordon Beattie touched on some of that in his previous answer. Can you say what is being done to proactively engage with local businesses about procurement opportunities?

Gordon Beattie: We do a few things. One is that we advertise all our tenders to allow people to see what we are going to procure. We have an annual procurement report that sets out our contracting requirements for the year ahead. We also have meet the buyer events: we have a procurement for health event coming up in Edinburgh on 25 April and we attend other events, such as Procurex, which is a big event in the autumn, and the supplier development programme event in Glasgow in the summer. As part of the procurement process, we also use prior

information notices and market engagement days to engage with suppliers.

Something else that is worth thinking about is that, when we award our contracts, we work closely with our main suppliers to support them with what they do within their supply chain. For example, 100 per cent of our fresh milk comes from Scottish farmers. We tender on a lotting basis: one Scottish company won that contract, but it works with local dairy farmers to deliver the milk requirement across Scotland. It is the same with our fresh meat: 100 per cent of our red meat, including pork and lamb, comes from Scottish farmers through three national contracts, but those contractors engage with the supply chain.

The approach is one of continuous development and working with our main contractors, as well as opening up our contracts for lotting to allow businesses to apply for part of those main contracts.

Murdo Fraser: We often get feedback from businesses who submit tenders and are unsuccessful but get no feedback about why they were unsuccessful. Do you have a mechanism to provide feedback to unsuccessful bidders?

Gordon Beattie: The act requires us to debrief companies that bid for every contract worth more than £50,000, which we do. Our contracts are far larger than that: our average contract value is about £4.6 million. We provide a formal debriefing process. After the award, but before the contract is entered into, there is a 10-day standstill period. We provide bidders with formal written evidence of why they were unsuccessful and where they ranked compared to their competitors and allow them 10 days to ask questions about the scoring and about how we came to our answer. They can also choose to challenge the award, and there is a formal mechanism for that.

Stephen Connor: A lot of what I would say is similar to what Gordon Beattie just said. We are required to advertise things at a lower level, which we hope will encourage small and local businesses to bid. A lot of our universities and colleges, and we at APUC, attend “meet the buyer” events to give us a chance to meet suppliers face to face and advise and direct them about the various ways in which they can react to contracting opportunities.

We have frameworks at APUC, and we are always conscious of lotting in a way that ensures that we are doing whatever we can not to exclude smaller companies. That can be done on a regional basis or along category lines. We try to break things down so that we do not put huge behemoth lots together that only big organisations and companies can bid for. We are very conscious of trying to make more of them. That benefits us,

as well—we do not do that just for a favour to local economies; it means that we can get more innovative companies and better service through using those small companies. Therefore, the approach benefits everybody.

That also involves thinking about what the most appropriate contracts are to break down in that way. Gordon Beattie mentioned food. That is a really good example. It also ties in with the sustainability side of things. Food, as opposed to more straightforward products that anybody can provide, presents a real opportunity. Food miles and freshness and whether the food is organic are issues. There is a real opportunity there to break things down to appeal more to smaller organisations. We also get the benefits of things being produced locally, such as fewer food miles and fresher produce.

Murdo Fraser: I am sure that my colleague Brian Whittle will have lots of questions about food shortly. I ask you the same question that I put to Gordon Beattie about feedback to unsuccessful bidders.

Stephen Connor: Obviously, we are required through the act to provide feedback with a regulated contract. If someone is not getting feedback, they should approach the contracting authority and ask it for that. In my experience, most of those on the buying side are approachable. If a supplier asks for feedback, people on the buying side are more than likely to give some feedback, even if that is not required by the legislation. They are usually quite open to that approach from suppliers.

Rob Mustard: On the focus on the business and communities, we recognise that Scottish Water has work everywhere across Scotland. We are acutely aware of that. However, when it comes to our procurement supply chain—this touches on my comment earlier—about 75 per cent of our supply chain is in Scotland through businesses that are located here and about 90 per cent of our spend is based in Scotland. As I mentioned earlier, 70 per cent of our supply chain consists of small and medium-sized enterprises.

We consider the allocation of work very carefully. Are we constructing a significant new treatment works, for example, or is it smaller infrastructure work? It is a matter of balance in relation to our bigger delivery vehicles. For example, we have 65 regional partners and contractors as part of our regional framework, and we do not rely on some of our bigger partnerships across the islands and in some of the more rural communities, in particular. Part of our procurement strategy is to ensure that we allocate that work appropriately across Scotland.

On transparency and feedback, I will pass over to Joe Rowan to talk about our e-procurement and transparency.

Joe Rowan: The SME community is absolutely vital for us, given that the scope of our work takes us to the Highlands and Islands and the Borders. It takes us all over the place—it is not just central belt activity—so we have to build good relationships with small businesses. That is why we have such a high proportion of supply partners in our water community, as Rob Mustard said.

We redesign the procurement so that, in essence, things are simpler for SMEs to go through. Some SMEs will not be able to follow a more complicated or stricter procurement process, and some of them struggle with the e-procurement systems that they have to go through. We have had to step aside from that and look at how we can make it easier for people to connect with us. We send people out from our teams to those businesses to help them to engage in the procurement process, because we want them to want to work for Scottish Water, and we need them as part of our network and our community. We have therefore had to rethink how to engage with smaller businesses and encourage them to work with the sector.

To pick up on the feedback question, in a similar way to my colleagues, we provide written feedback against all procurements, regardless of threshold level, and we offer in-person feedback as an option to all bidders. We find that that is quite attractive. People actually want to come in and talk to us and ask about how they can improve their tendering and where their weakness is, and we are happy to provide that feedback in person to them, because we want them to be successful. We want people to come and work with us. We have plenty of work.

Evelyn Tweed: In 2023, research was carried out that compared Scottish procurement with other UK models, and it was found that, generally, it is a success. It suggested that Scotland is regarded as a leader in the field of sustainable procurement. It is refreshing to hear that Scottish Water has taken on a lot of the procurement regulations, because it thinks that they are a good idea and that it would be best practice. Normally, people try to stay away from that stuff if they can.

Joe Rowan, I am interested in your comments. How can the regulations be strengthened 10 years on? How can they be made better to help organisations such as Scottish Water to achieve net zero targets and so on?

Joe Rowan: I will give you a bit of background. I have been in the public sector for more than 20 years and I have seen a massive transition in the quality of public sector procurement capability in

that time. I am definitely seeing the highest quality of professionalism that I have ever seen, and that is coming from somebody who is a fellow of the Chartered Institute of Procurement and Supply. Part of the strength of the Scottish public sector is that we are developing high-quality talent.

On the sustainability side, contracting authorities require more development on how to get the outcomes that are needed through their supply chain partners. There are two parts to that. One is about how we invest in capability in public procurement resources and people to help them to get the knowledge, the toolkits and the ability to have appropriate conversations with businesses on how to get more sustainable procurement outcomes. It is less about adding in more general duties. I would not necessarily argue that we need more prescription. What we need is more description of what is important to the people of Scotland in this area, then we can allow the contracting authorities the space to deliver the outcomes that the people of Scotland need. We are different now. I do not think that we need to prescribe what needs to be done. We need to describe it and allow the talent to deliver the outcomes.

Secondly, more development is needed in human capital, and we need to support the business community more to deliver more sustainable procurement outcomes. That will take a good number of years; it is not an overnight thing. That is what we are finding when we talk about the reduction of carbon, for example. We have to go in and really work with businesses. We cannot just say to them that it is a tick box in the procurement process; we have to go and visit them. We have to understand their businesses and help them with it so that we can reap the rewards of that two or three years down the line, as they start to improve their carbon outcomes, for example.

11:00

Stephen Connor: I echo what Joe Rowan has just said. I strongly agree with that.

With regard to refreshing the 2014 act or adding to it, I do not know whether that is entirely necessary. There is already quite a bit in the act and in the Public Contracts (Scotland) Regulations 2015 that allows a lot of discretion with regard to sustainability. Across the public sector and my sector, we are doing a lot; the next step is more about increasing the level of capability and knowledge among suppliers, as well as increasing knowledge and expertise internally in our organisations. Anecdotally, you hear that procurement staff are getting a lot of training around sustainability and are keen to move on that, but when it comes to delivering a project or a

contract, they are bumping up against internal barriers, with people saying, “We are not ready for that”, “We don’t want to go there” or, “We don’t have the budget”. It is more about wider capability and resource than about changing the legislation.

Gordon Beattie: I was going to say something similar. It would be good to set out more shared targets and visions in relation to where we want to get to, although not necessarily in regulations. We are looking at progressive improvements to get to net zero, but a big element of that is our capacity and bringing in new solutions, such as digital solutions, to free up time to procure and to allow people the space to deliver on initiatives.

We have some great new tools for sustainable prioritisation and other such tests, which we use to focus our attention on where we can make the most impact in our contracts.

The additional continued training that others have mentioned is really important. I am not sure whether that requires different regulations or new regulations.

Maggie Chapman: I want to explore an issue that Evelyn Tweed raised. We know that a lot of effort is put into thinking about procurement as delivering positive social, economic and environmental outcomes, as well as providing the goods and services that you all need to fulfil your functions. I am curious as to how you see those outcomes being set and determined, and about your role as procuring agents in those discussions.

Do you have clear lines of conversation with other agencies or internally in your organisations on how you can use your procurement power to tackle gender inequality, for instance? How do you see the setting or aspiration of the procurement outcomes that are not about service delivery or getting the stuff that you need?

Gordon Beattie: It is interesting that procurement has become a way in which we can deliver better health. A focus on healthy working lives and the community benefits of delivering that into our communities has become very much front and centre of what we do. It is done contract by contract, subject by subject, based on what we are doing. Some of those aspects can be clearer in larger construction contracts, where we have community benefits that are more focused on employment.

We do not tend to have such contracts in my national procurement area, but we have introduced a community benefits portal, which allows communities to put in a wish list of what they want support on. It also allows us to link them up with our suppliers, which have a built-in obligation in our contracts to consider and deliver on community benefits. At the moment, we have about 470 community organisations signed up to

our portal, and we have 530 suppliers. We set a target of delivering 34 community benefits this year; we have already achieved 40. Those are some of the ways in which we are delivering something important for communities.

We are following the healthy working lives and fair work first legislation. Last year’s annual report showed that 111 of our national suppliers were living wage organisations, and my organisation, NHS National Services Scotland, is an accredited living wage employer. That is how we are doing it.

It might be useful to have some additional targets for specific policy areas, so that we could react to those. Procurement is often seen as a lever to pull to nudge the supertanker around a little, because we can respond to policy decisions.

Maggie Chapman: On your last point about targets and about identifying the social or environmental impacts that we want to see, should those come from national or local government, should they be community led, or should there be a mixture?

Gordon Beattie: I think that there should be a combination.

Stephen Connor: We have a responsible procurement team within APUC and the person leading a new framework or project will engage with that team to look at the key sustainability risks. Those will differ from contract to contract: they will sometimes be more environmental; at other times there will be social or fair work issues. We use the expertise of that team to thread things through and to look at the impact that we can make with the contract that we are putting together. We try to do that intelligently, rather than throwing lots of things at the wall to see what sticks. We look for the most impact that we can make with what we put into the invitation to tender, the weight that we put into evaluation and the kind of contract monitoring that will be undertaken afterwards.

We also engage with other organisations. We have close links with the Environmental Association for Universities and Colleges and APUC is on the board of Electronics Watch, which is a human rights monitoring organisation for the electronics industry. We take advice from them and they suggest what we can put into our frameworks to make the biggest impact.

You asked who should determine what goes in. That sometimes depends on who the end user is. I can speak anecdotally about the sector: some people are keen to push hard on sustainability and procurement will go along with that but, at other times, it is the procurement team that pushes or challenges for that. If there is not much interest, the procurement team might try to suggest what can be put in. It can differ from category to

category and sometimes it comes down to what individual end users are interested in.

Maggie Chapman: I suppose that you are suggesting that having students and staff campaigning for things inside universities sometimes makes a difference to procurement.

Gordon Beattie: That can definitely put a spotlight on issues and can have a direct impact on decision making and strategy.

Maggie Chapman: Rob Mustard or Joe Rowan, do you have anything to add?

Rob Mustard: I will start off at a higher level, looking at outcomes, particularly around working together with other partners. One of the big challenges for Scottish Water—and, I guess, many other organisations—is climate change and climate change adaptation. In order to navigate that challenge, it will be crucial for us to work with others through partnerships. One of the words that we are using to describe those partnerships is “ecosystems” and, in terms of outcomes, we are looking at what happens in those ecosystems, rather than looking simply at direct procurement. The approach is also about enabling us to work with partners such as local authorities and good examples of that are starting to happen already.

Those higher level outcomes manifest in the work that we ask Joe Rowan’s procurement team to do, aligned to our overall objectives, one of which is, as I said, climate change adaptation. With regard to process, things such as the fair work first approach are embedded in procurement across the board, as our starter for 10. For example, we expect all our suppliers to pay the real living wage. We are building such things into the procurement process as the nature of what we are asking our partnerships to do changes.

Joe Rowan can respond from a process point of view, touching on equal pay and so on.

Joe Rowan: My direction in terms of the procurement strategy and the supply chain design is based on Scottish Water’s clear objectives and ambitions. That means that I have less uncertainty about what we are trying to do with the roughly £1 billion a year that we spend and am clear about the value that we are trying to get out of that.

Rob Mustard touched on the fact that we are very interested in procuring outcomes, which means that, instead of using the procurement process to figure out what the outcome will be, we work backwards from the outcome that we are trying to deliver and build the process to get that outcome. We have found that approach to be quite successful.

Rob also mentioned the fact that the fair work first approach is embedded in all our agreements, as is the real living wage. Our activity is focused

not only on our frameworks or contracts; through our business relationship processes, we go out and spend time in the business community to see how they are getting on with implementing fair work first, the real living wage, gender equality and so on.

We have found that having tick boxes for gender equality and so on is not helpful and does not move the dial at all. Rather, you have to go out to the businesses and talk to them about the importance of the issue, what their plans are, what progress they are making, what challenges they face and whether there are shared learning resources that we can provide to help them. In order to move the dial with regard to the value that we get, work needs to be done post-procurement rather than during the procurement process. We do a fair amount of work on the real living wage, gender equality and fair work first after the procurement process, when we are in relationships with suppliers and can go out and make those policies come alive.

Maggie Chapman: That is helpful, thank you.

You have all talked about the need for internal consistency with regard to training and awareness raising to ensure that people understand the idea of trying to procure for good. This might be a difficult question to answer briefly, but how often do you find that the positive outcomes that we have been talking about—the promotion of ethical goods, fair work and gender equality, the reduction of inequality and so on—are sacrificed because of cost? Also, how much of that sacrifice could be allayed by the improved consistency and coherence of training and awareness raising with regard to the longer-term social and environmental benefits of procurement?

Rob Mustard: The key is that none of our procurements is based solely on price. Working with Joe Rowan, my colleagues and I consider issues that we have mentioned today—social value, safety, innovation and so on—and build that into all of our procurement.

Price obviously has a weighting, as do the other aspects of procurement. Those weightings and elements are based on the types of procurement that we are doing—whether we are looking for absolute surety of outcome by time or something more in the partnership, learning and innovation space. That is the basket of elements that we use in Scottish Water. Procurement is not solely based on price, although value for money is obviously important as part of the process that we adopt across the board.

11:15

Joe Rowan: We have also had to consider whether we can use approaches such as two-

stage procurements, in which we can focus on the price and cost—value for money—and then on carbon and other social values. If you do a one-stage procurement and have 100 per cent of a value rating, something such as a social value could end up with a 10 per cent weighting, so it will not necessarily make a huge impact. Therefore, we have had to consider whether we can do evaluations differently, to give other values much more space and importance.

We have also considered whether we can just weave the other values in as principles and expectations and get the value out in the post-procurement arena. That is what we find. In our experience, if you are dealing with SMEs and trying to take them through social value stuff, it is better to talk about and get them to sign up to the principles and then, in a post-procurement environment, get into how they will deliver on them. We have found that we can move the dial by taking that out of the procurement exercise and putting it in a different environment.

Maggie Chapman: That cultural buy-in is important.

Joe Rowan: Yes, the critical bit is getting them to buy into why it is important, but we have found it almost counterintuitive to put weightings on social values.

Gordon Beattie: The NHS steps into contracts to get good patient outcomes. That is where we start. We then have lots of risk assessment tools to consider the individual risks within a contract. We also have commodity advisory panels, which are made up of subject matter experts who help the procurement teams to establish what the award considerations should be in terms of technical, quality, sustainability and environmental considerations, for instance. That is the method that we go through.

Every consideration is case by case and with relevance to the subject matter. We do nothing on price only. I have examples of different procurements where there is a 30 per cent price or 70 per cent price weighting. However, there are often mandatory requirements, which mean that you must achieve certain things. In some cases, we have mandatory requirements for ethical procurement standards. Bidders do not get into the room unless they meet certain minimum requirements, which gives us assurance that people will be able to respond in a good way to what we ask for and that we will get good patient outcomes.

Stephen Connor: Similarly, we never make any decisions purely on price. One key point is to try to thread sustainability into the process, rather than it being a separate add-on piece. We try to thread it through the strategy, the specification and the

questions, so that it always underpins the evaluation.

Another key point is to try to maximise the impact that you can have and be quite targeted in what you do with regard to sustainability. One of the best things that you can do on that is to think about it up front and consider what you are buying. Depending on what it is, you can consider what the key risks are and where you can make a difference.

Sometimes, a process gets bogged down when you throw at it lots and lots of requirements that might not be relevant. If the tender document becomes unwieldy, you start to get complaints about it being too much admin. It is a matter of going through the process intelligently—and that starts to feed into the outcome. Ms Chapman mentioned sacrificing certain things for the sake of value, but if you do things properly there should not be a sacrifice, because you will be able to demonstrate value. That would not be an add-on; it becomes an integral part of what you are buying. With fair work, if the outcome is linked to better employee happiness or satisfaction, we can clearly demonstrate that if we get that aspect right, we will end up with a much better contract that is delivered to a higher standard, despite any increased cost in the wages that we pay or in the benefits that accrue to employees. The ideal approach is to target the most important sustainability aspects, and that then becomes a key part of the outcome: it is all bound into one thing.

Maggie Chapman: Great—thanks.

Colin Smyth: I wish to follow up on some of the points that have been raised. Local authorities have mentioned

“the challenges in monitoring and capturing this data in respect of sub-contractors and the wider supply chain”

once a contract has begun. They pointed out that,

“At contract evaluation stage, the evaluation panel will consider Fair Work First responses submitted by the principal contractor”,

but the council does not have the resources to follow that up through monitoring what actually happens with subcontractors.

I will start with you, Rob and Joe, as you spoke a wee bit about some relevant discussions. How do you monitor the delivery of fair work principles when you have a big capital project that might have gone to a contractor and that could be subcontracted in a whole range of ways? How do you know that the subcontractors are delivering on those principles?

Rob Mustard: I will ask Joe Rowan to step in shortly. In what he has said so far, Joe has already touched on the visits, attendance and

going out to do testing, so I will ask him to come in on that.

On the question of how we structure ourselves post-procurement in relation to significant investments, we have strategic boards, and we get all the evidence that you would expect to come through, relating to safety, health, wellbeing, financial performance, milestones delivered and so on. I sit on some of those strategic boards with colleagues from our subcontractors and our main contractors. That is part of the test on governance, particularly on key data capture.

We have a number of data capture activities, particularly for health and safety, and we drive consistency of information and evidence. Ultimately, it comes back to us to give a balanced scorecard on performance for areas that we want to examine. We have SMEs that work for us, some directly and some indirectly through our main contractors. It is a matter of achieving consistency of approach.

Without diminishing the need for a human approach, the systems, the systemisation, the digitisation and the ease of capturing information help us, and we are working closely with our supply chain on that. There is more to do in relation to our future procurements through digitally integrating our system a lot better, enabling data capture from source to somebody like me.

From the procurement perspective, Joe Rowan does the actual visits and the data capture, and I ask him to touch on that.

Joe Rowan: We have subcontracting, but Scottish Water looks to create a supply chain design with multiple layers of procurement in it—which we do. There are very few instances where a primary contractor will have its own supply chain; we will build that supply chain on behalf of the primary partners, which is unique. We can go down to three or four levels of depth in the supply chain, which gives us what we call an ecosystem. Primary partners draw off the wider supply chain that we have procured, which means that we can embed fair work first and sustainability. We can do that right across the different layers and complexities of the supply chain. As Rob Mustard said, we are trying to digitally enable the information a bit more than we have done before.

All of that ecosystem is available to all the partners. We use the Scottish Government's professional electronic commerce online system, in which there are literally 400 catalogues and 21,000 individual lines. If I have got a primary construction partner that is doing work for Rob Mustard, they can go into PECOS and draw off what they need from any element of the supply chain. That is critical for us, because it gives us

traceability, as well as transparency about what is going on with the real living wage, fair work first and gender issues. There is whole-supply-chain visibility. Subcontracting is not a blocker for us; it is just a part of the wider supply chain ecosystem.

Colin Smyth: Stephen, I imagine that building that for dozens of individual colleges and universities would be quite a challenge for you. I am keen to hear how colleges and universities monitor that across the board. I am also intrigued by something that you said about the tension between best value and other requirements of the 2014 act. In your submission, you say:

“Potentially the requirement to consider wider policy issues is also leading to the stifling of best value and innovation. Contracting Authorities can be so focussed on including all aspects of policy (fair work, environment etc) that it becomes a box ticking exercise and dissuades smaller companies from bidding.”

I am keen for you to expand on the challenges around that tension.

Stephen Connor: I mentioned in a previous answer that we try to be targeted in the way that we think about sustainability requirements. The danger is that procurement is seen as a vehicle for delivering every type of policy. If it is not done properly, the regulated space can get a bit overloaded. I am talking about fairly standard lowish-value contracts. There is a danger in throwing lots of additional things on top of what we ask suppliers for. The key part of the specification might be quite small, but a raft of sustainability requirements might be tacked on to it. If those things are not relevant, small suppliers might be put off because we are asking them for all sorts of different policies and procedures—things that an SME might not have.

Certain companies can be very good at answering such questions, but other companies might be better at delivering the requirements. If a contracting authority has piled lots of irrelevant things into the ITT, we can end up with an imbalance whereby the company that wins is the one that gives all the right answers on sustainability, but we also need to consider what it is providing. That was the thinking behind the comment in our submission. It is a question of being more intelligent in our approach and not just throwing everything at the wall and seeing what sticks.

Colin Smyth: Gordon, feel free to comment on how you monitor what happens beyond the main contractor. It is no secret that the NHS is facing huge financial challenges—my local health board has just announced that it has a £35 million deficit this year alone—and procurement must be one of the ways in which you are seeking to find savings in the health service. At the end of the day, price must be the absolute driver when it comes to

delivery. To what extent are you using procurement to try to make the significant savings that you are having to make? What effect does that have on other issues such as fair work and the environment?

Gordon Beattie: It has always been that way. In my years in the NHS, we have always used procurement to try to get best value delivery. However, it is absolutely in the mix to ensure that we get the right products and services. I do not think that there is any conflict there. My national procurement team has £1.5 billion in contracts. A big element of that, given the period of high inflation that we have had, is to maintain prices and keep a lid on increasing prices. We work closely with our health board teams on introducing change, different products and suppliers, best value and so on—that is part of what we do. You are right that that is a key element of how we are going to help and support our health boards in the financial situation that we face.

11:30

Colin Smyth: Scotland is a fair trade nation, and public procurement is an important part of that. A few years ago, the Scottish Fair Trade Forum did a piece of work that involved making freedom of information requests to find out how much public bodies were spending on fair trade products. To say that there was a mixed bag would be an understatement. I do not think that Scottish Water spent anything on that. It might well be that it does not monitor that or capture that information, but Scottish Water certainly said that it had no expenditure on fair trade products. The expenditure by colleges and universities varied. The University of Edinburgh had done some innovative work on using fair trade graduation gowns and it had a specific contract for that, but others said that they did not spend anything. Again, it probably comes down to how such expenditure is monitored. The NHS varied from board to board. There were some big figures in some areas but very little was spent in others.

Is fair trade on your agenda with regard to the procurement of products? What do you do about it?

Joe Rowan: We now have some fair trade products in Scottish Water, mainly on the food side—in our canteens, for example. We have made sure that fair trade is embodied there.

We have been looking at fair trade in a slightly different way and we have created a wider ecosystem approach. We are keen to offer members of the fair trade community an opportunity to be part of that where there are services or products that could be used by the water sector. They do not necessarily have to go

through a procurement exercise or anything like that; they can be bolted on to the ecosystem so that their products and services can be used where appropriate. That is our next stage. Part of that is about communication, because we have to go out there and say, “This is what the water sector is. Why don’t you come along and learn about it? We can then learn what you have and see whether we can bolt you on to the wider ecosystem.”

Colin Smyth: Do you measure the value of that in your overall procurement?

Joe Rowan: Yes. We measure its value in our overall spend. I do not think that there would be any value in doing it through a procurement exercise. We are probably spending about £20,000 a year on fair trade products, but under that different approach we will probably be able to multiply that a fair bit if products and services that we could utilise are there.

Stephen Connor: When you walk into some universities and colleges, you will see signs that say that they are fair trade organisations. Fair trade is part of a wider, more general approach to ethical supply chains. The starting point is to look at the particular requirement, identify the risks around ethical supply and ask where the goods and services will come from. It is then a case of asking what we can do to address the risks that have been identified, and fair trade might be a part of that.

There is some case law on use of the Fairtrade trademark. If you are going to specify that something is a Fairtrade product, you have to open the door for other things that might not have that trademark but are equivalent. A lot of people in our sector are on board with that. A lot of fair trade involves food and garments, and fair trade is typically a focus in those areas. We will ask for some things to have been fairly traded or ethically sourced and we will lay out what that looks like. That will involve asking suppliers to tell us what their supply chains look like, how they manage them, how they manage their suppliers, where the goods come from and what they do to manage the risks.

You mentioned monitoring. I do not know what level of monitoring there is of what fair trade products universities and colleges buy, but some of them probably do such monitoring. In general, monitoring is a huge area, especially around sustainability. A lot of work is done in the public sector to put sustainability up front in ITTs. The next thing is to start looking at what the outcomes are and ensure that they are delivered through contracts. It is a good story to tell if we can show that such things are being delivered and that we are monitoring them.

Colin Smyth: I turn to Gordon Beattie. The fact that there is a mixed bag in the NHS probably comes down to monitoring as much as anything else. People do not always measure the full range of fair trade goods that they buy. Is that a challenge for the health service? Are you even asked to do that at the moment?

Gordon Beattie: I will probably need to come back to you on that. We certainly build ethical procurement into our food contracts. If you wish, I can get back to you with information on the range of requirements in our food contracts.

I do not have information on the Fairtrade label. As Stephen Connor said, there is a requirement on us to set out what level of ethical trading is required, rather than to say that products must have a Fairtrade label. The suppliers respond to that by sourcing teas, coffees and other hot beverages that are Rainforest Alliance accredited, Fairtrade and so on. I can get additional information on that.

Colin Smyth: That would be helpful—thank you.

The Convener: I would like us to make progress, so it would be helpful if members and witnesses could keep their questions and answers as concise as possible. I also want to draw us back to the 2014 act, which is what we are scrutinising this morning.

Colin Beattie: Mention has been made of procurement as a vehicle for managing or even reducing costs. We have heard that goods and services that cost more up front might offer better value for money over a longer period. To what extent are you able to make decisions that are informed by calculating the whole-life value of the product or service that is being provided? Are there any barriers to that? Perhaps Gordon Beattie could comment on that first.

Gordon Beattie: Again, we approach the issue on a case-by-case basis. Where it is appropriate to consider whole-life costing, we will build that in. We will look at that over a 10-year period or over the natural duration of the arrangement. We will consider that as part of our overall award criteria. That is how we build in whole-life costing.

There are no specific barriers to looking at whole-life value, other than the time that it takes for our experts in procurement to work with the commodity advisory panels to understand what the cost implications would be and to build them into a scoring mechanism that allows us to be clear about the reasons not just why someone was successful, but why someone else was unsuccessful. That is always the challenge. People ask me why we cannot award a contract to a particular company. We have to be able to explain to all the unsuccessful companies why

they were not successful, so we need to have clear criteria. The challenge with whole-life costing lies in making the process consistent, clear, fair, equitable and transparent to everybody.

Colin Beattie: The whole public sector is under pressure cost-wise. Is it not true that the whole-life costing approach is less adhered to simply because of the short-term need to save money, stay within budget and reduce costs? Does that not put a lot of pressure on the adoption of whole-life costing?

Gordon Beattie: We want to have outcomes that are consistent and sustainable and that support our patient care. Ultimately, if we get that wrong, it increases the cost to the service. We have established a way in which we can consider all the different parameters that build up to decisions on which are the best products or services to buy, and that is what we follow. We would not move to a situation where it was based only on price. That would not give us the outcomes that we need for our patients.

Stephen Connor: We try to do whole-life costing, to the extent that we can. We build cost models that take in running costs and end-of-life disposal costs in order to build up a picture of the total costs of ownership of particular products. We try to do that as much as possible. The modelling of that is one of the challenges that we face, because things can get quite complicated. Sometimes it is all right to use a product installation, maintenance and disposal approach and we can show the costs over a number of years. However, if we try to factor in energy costs and how much things might cost to run, we run the risk that it will become overly complicated, because it is difficult to predict what energy costs might be in X years' time. Also, as Gordon Beattie said, we might have to explain to a supplier that they have lost out on a contract because of a model that we have built, so it has to stand up to a decent amount of scrutiny. There is therefore a tendency to play on the safe side.

On the point that was made earlier about short-term thinking, our sector is reasonably good at the medium term and the long term, but there is certainly a bit of year-on-year budget thinking, which sometimes prevents people who will not necessarily have the required budget in a given year from taking a product that will last them several years. They might decide to renew something every year or every couple of years whereas, if they were able to, they would prefer to spend money on buying something that will last for a longer time. Annual budgets can sometimes prevent long-term investment.

Rob Mustard: I will provide a quick high-level response. At the upper level, which Joe Rowan touched on, it is about how transparent and clear

we can be about the outcomes that we are seeking. Being the type of organisation that we are, we have to make some decisions today for tomorrow but, as an infrastructure utility, we also make long-term activity decisions for well past tomorrow. On the point that Stephen Connor made, I add that we have models for the longer-term journey that we are on. If I can fit those and visibility of outcomes with the procurement that Joe Rowan runs, that is where we will get out of the cycle of short-term decisions affecting the longer-term outcomes that we seek. We are a water provider, so value for money for our customers is clearly important in that regard. Instead of an annual approach, we are in a six-year regulatory period, and we are already starting to look at the implications for the next period and beyond as part of our strategic planning.

The short answer is that, if we can better link transparency of outcomes and the visibility of likely work, we can balance those things with our investment appraisal process to give us the right solution. I hope that that will allow us to procure for the short, medium and long term and get value for money.

Colin Beattie: I turn to the slightly different subject of framework contracts and lotting, which we have heard much about. What has your experience been? How much of a challenge is it to make opportunities accessible to smaller and perhaps regionally focused firms, while sharing risk and ensuring good value, which is quite tough? I will go to Gordon Beattie to answer for the NHS.

Gordon Beattie: We use lotting. I asked the question before we came to the committee, so I can tell you that 46 per cent of our national contracts are lotted. Some are broken down into very small lots that are specific to product types, and some are split into regional lots by health board region—many food contracts are done that way. That is done to encourage and allow access to smaller packages in terms of cost and to allow inclusion of more specific requirements. That is how we establish the lots.

11:45

It is still sometimes tricky to get a range of bidders for individual lots. I will use milk as an example. We broke the requirement down into lots for all the health board regions in Scotland, but we awarded the contract to one supplier because of a lack of competition. It is a Scottish supplier, which is good, but not many small businesses took part. On reflection, our team realised that different organisations have different customer bases. Some big milk providers do doorstep delivery services, while others focus more on creamery or

cheese products, so we were dealing with a small number of suppliers.

We try to encourage as many suppliers as possible to bid. We have a single lot for some contracts, depending on the nature of the product, and businesses can compete for that. We have just awarded an imaging equipment contract to a new Scottish small enterprise that competed against some large multinationals. It will be interesting to see how that goes.

We had a “show and tell” event at Ingliston a couple of weeks ago to help businesses with our general award process and to encourage competition. Suppliers came and met 70 senior consultant medical and technical staff from across Scotland who could see what those suppliers offer.

Colin Beattie: Witnesses have been telling us how complex the procurement process is and how difficult it is to access. How do you tackle that? I am thinking particularly about small companies that do not have the resources or experience to put together complex documents.

Gordon Beattie: I have seen the submissions to the committee’s inquiry. We have a supplier development programme and we meet our Scottish supplier group—we last met the group last autumn.

We are going through a process with our colleagues in the Scottish Government to reprocure our procurement systems. Our e-procurement Scotland and Public Contracts Scotland tenders will be reproced, so there is an opportunity to work with our suppliers to ensure that we get more user-friendly systems. That work is on-going and we hope that it will help to reduce barriers to entry. Digitisation and digital solutions will give us ways to make that easier.

However, we are procuring complex products, so services must ensure that we get that right. The contracts and tenders, by their very nature, are not straightforward or simple.

Stephen Connor: I can add briefly to that. We, at APUC, use lotting in our frameworks. Market engagement is key. We have to understand the supply market and we structure lotting based on market intelligence.

APUC has been around for several years, so many of our frameworks are coming up to their third or fourth iterations. There has been an iterative process: we looked at how we structured things the first time and learned for the second time round. We are now getting on to the third and fourth iterations, so I hope that we are getting better at that.

I can think of frameworks in which the geographical lots were too broad the first time we

used lotting, or in which the categories that we used to split up the framework were incorrect. With better knowledge and understanding of the market, we can start to tease out more and better competition by using better structures. It has been a learning process, but market engagement is key.

Joe Rowan: Scottish Water uses lotting, but I do not see it in the same way. We look at the outcomes that we are trying to deliver and we build procurement around them. We tend to use lotting sparingly.

Because 70 per cent of our supply chain is SMEs, we have had to desensitise the procurement process a little and acknowledge the fact that we have to spend more time helping those businesses to engage with us and be part of our community. We have had to pivot from normal procurement to SME procurement, so we have had to learn about that. We have had to change the procurement process, the questions that we ask and the support network around businesses.

We go out in the Highlands and Islands to visit organisations. We sit in people's kitchens, if necessary, to help them through the procurement process. We have done that in various communities. We do whatever is necessary to help businesses to become partners in the Scottish Water supply chain. Our approach is less about using lotting and more about rolling up the sleeves and helping SMEs to get into working with Scottish Water.

Brian Whittle: I want to look at a practical example of the idea of higher up-front costs potentially delivering a better long-term result. I cannot think of anything that is more relevant, Mr Beattie, than the food that we give to our patients. The last time I looked at the issue in any great depth, I saw that there was huge disparity among NHS boards in respect of hospitals' ability to prepare food on site, given where we seem to be going in developing facilities that have their food prepared off site and brought in. Surely it must, given its size, be difficult to procure into the NHS locally produced and locally prepared food.

Gordon Beattie: Our part in that is to secure good-quality products through our national contracts. We do that in a number of ways. We put out to tender and have put in place contracts for fresh meat, fresh milk and so on. We also have main suppliers with supply chains into which we are able to nominate products.

I can give a couple examples of how we build quality into that process. We wanted to create a source of sustainable haddock, so we engaged with a sustainable fish provider in Aberdeenshire. Our team went on trawlers and agreed what they wanted with the supplier. The fish are landed fresh in Aberdeen, processed in Whitehills, which is

near Banff, then provided through our main contractor to our Scottish supply chain. That is an example of how we can work closely with local businesses to bring food into our supply chain. The food is then drawn in by our catering teams across Scotland and put into the mix of how they provide catering to hospitals.

Another example is related to the Good Food Nation (Scotland) Act 2022. We work closely with NHS Fife, where we have a requirement for a new baker. We have been working closely with the board on supplier development; we have been helping it with tendering by supporting its input in tendering and linking the board to the main contractor supply chain. In that way, we can support new entrants and add requirements.

That is generally what we do. Ingredients are then drawn down by our catering managers, who are the experts in what they need to provide in terms of food requirements for their hospital area.

Brian Whittle: I will go back to the issue of disparity. The last time I looked in any depth, I became aware that there are some fantastic examples. You have highlighted some of them. However, there are also examples of food being prepared and plated outside Scotland, as far away as Wales, before it is driven to our major hospitals. One of the big concerns was that the wastage level was about 55 per cent, which does not help us in the transition to net zero. I am not putting you on the spot, but we have to look at that. If we are unable to prepare food on site, we have to import it. I am concerned about food being prepared and plated in Wales then driven up the M6. How do we tackle that?

Gordon Beattie: I do not know whether I can specifically answer the question about food coming from outside an area. I would need to confirm whether that is something that we do or it is done through our health boards' local procurement processes. I will check that. Certainly, our focus is on supporting our catering teams in ensuring that they have the quality of food that is required for our patients' needs.

Brian Whittle: For clarity, am I correct that you procure centrally for the NHS, but that local boards have the capability to procure their own food?

Gordon Beattie: Yes. We create national frameworks that boards can use and draw down from, but if the catering strategy is different within a health board, it might not use the framework in that way. There is choice. I need to take the question away and get back to you with an answer. The question is more about catering strategy than it is about procurement strategy, so I will ask colleagues who are closer to the matter to provide more information.

Brian Whittle: That would be helpful. Obviously, we want the highest-quality food for our patients, and we want it to be provided locally. If there is a way that we, as parliamentarians, can change how things are done, I would appreciate knowing that.

I will leave it there, convener; I know that we are against the clock.

Gordon MacDonald: The Public Contracts Scotland website has been on the go since 2008. When it was introduced, it was a good improvement on where we were previously, but what is your experience as buyers who are using that website now? Is there anything that could be improved, as we move forward? Gordon Beattie mentioned that the website is currently under review. Can you say why that is and what difficulties you are trying to address?

Gordon Beattie: Under its commercial tendering contract, the website is at the end of its life. Our colleagues and the Scottish Government procurement directorate, which is responsible for it, have been extending its life, but it will come to an end over the next couple of years. We are doing a national reprocurement exercise for the services that provide us with e-procurement solutions; we are looking at the Public Contracts Scotland website as well as the e-tendering system, alongside some analytics work. That is not my direct responsibility, but we will work very closely on it. We will be on subject-matter expert panels and will help to ensure that we get a modern fit-for-purpose product.

Stephen Connor: The website has been a useful tool, but it is coming to the end of its life, as Gordon Beattie said. Personally, I do not have much interaction with the tool, so I cannot give a complete view, but we are also engaged in the reprocurement process and are gathering feedback from the sector and feeding that in. I hope that, whatever the next iteration looks like, it will be a further improvement.

Gordon MacDonald: Joe Rowan, I think that Scottish Water does not use the platform because you have your own e-sourcing portal. Have you compared it with the Public Contracts Scotland website?

Joe Rowan: Yes. We use elements of the website to host our catalogues. All our frameworks and contracts are on a big Amazon site inside the Scottish Government, which allows all our partners and those in our supply chain ecosystem to use it. We get amazing compliance because it is all there. Everybody likes to use Amazon, so we have built it using that system.

The Public Contracts Scotland website is not suitable for utilities' procurement because it has been created with public regulations in mind.

Initially, we found it to be incredibly restrictive and we had a few challenging conversations with our Scottish Government colleagues about how it was restricting our ability to do stuff, so we pulled out and created our own e-procurement platform to give us the space and the air, if you like, to do what we needed to do within our own regulations.

Gordon MacDonald: Does your platform have any functionality that we should be building into Public Contracts Scotland's website?

Joe Rowan: That is a really interesting question. Our platform is based on an invitation to negotiate. It is quite sophisticated in order to allow us to do that, as well as to do something that we call innovative partnerships. We are using procurement approaches that are quite different to those that many public sector colleagues use. If I had one wish, it would be that everyone would use negotiated procedure as standard, and that they would drop open procedures and restricted procedures and treat them as historical. I think that Scotland's public sector would generate much more value for money using negotiation and if it trained its procurement teams to negotiate effectively. That is my plea.

The Convener: Thank you. I will go to Kevin Stewart.

Kevin Stewart: My question has been answered, convener.

The Convener: I thank the witnesses for attending the meeting and for contributing to our inquiry.

12:01

Meeting continued in private until 12:20.

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