House of Commons
Committee of Public Accounts

Offender-monitoring tags

Fifteenth Report of Session 2017–19

Report, together with formal minutes relating to the report

*Ordered by the House of Commons
to be printed 15 January 2018*

The Committee of Public Accounts

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Publication

Committee reports are published on the Committee's website and in print by Order of the House.

Evidence relating to this report is published on the inquiry publications page of the Committee's website.

Committee staff

The current staff of the Committee are Richard Cooke (Clerk), Dominic Stockbridge (Second Clerk), Hannah Wentworth (Chair Support), Ruby Radley (Senior Committee Assistant), Kutumya Kibedi (Committee Assistant), and Tim Bowden (Media Officer).

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Contents

Summary

Offender-monitoring tags can be a cost-effective alternative to custodial sentences, but the Ministry of Justice's (the Ministry) delivery of the new generation electronic monitoring programme so far has been fundamentally flawed. The simple idea of replacing the contracts for electronic tags was made overly ambitious, overly complicated and has been poorly delivered.

The programme has so far been a catastrophic waste of public money which has failed to deliver the intended benefits. The Ministry pressed ahead with the programme without clear evidence that it was to be operated or that it was deliverable. Its selection of a high-risk approach to procure the new electronic tags, and its poor management of both the programme and potential suppliers, exacerbated these problems. The Ministry of Justice has ultimately wasted a huge amount of time and taxpayers' money to end up with an approach which uses the same types of tags and supplier it had when the programme started.

Many of the lessons the Ministry claims to have learned are simply common sense and should not have resulted in such a shambolic delivery of an important programme. We welcome the Ministry of Justice and HM Prison and Probation Service's realism and candour, but this situation should not have been allowed to happen in the first place. We do not expect to see similar failings in any of the other 16 major projects currently being undertaken by the Ministry of Justice.

Introduction

Electronic monitoring allows the police, courts or probation services to monitor an offender's location and their compliance with home curfews. In 2011, the Ministry of Justice (the Ministry) launched a programme to develop a new world-leading ankle tag, employing GPS technology to be used by all tagged offenders. The programme was intended to reduce the cost of tagging and provide wider operational benefits and more sentencing options for courts. The new tags were originally due to be rolled out from November 2013. Owing to a series of delays, the new tags are now expected to be rolled-out from early 2019, more than five years late. The Ministry has so far spent over £60 million on the programme, including £7.7 million (plus VAT) of losses which cannot be recovered, yet it still relies on the same form of tagging technology that was commercially available when the programme first started.

Conclusions and recommendations

1. **The Ministry of Justice's unjustified and overly ambitious scope for the programme has proved to be undeliverable.** The Ministry of Justice (the Ministry) told us that it had been "startled and stunned" by the over-optimism of the original project. It accepted that not enough research was done before the programme was approved and that it should have piloted the programme. The programme received limited external challenge because at the time it was seen as just a simple re-procurement of an existing service. Earlier reviews would have provided opportunities to examine the justification for the programme and explore whether it was achievable. This combination of failures resulted in requirements for the programme that were far too ambitious, including the development of a bespoke tag, and a timetable for delivery that was unachievable. The Ministry accepted that it should be more ready to use off-the-shelf products where these are already available and appropriate rather than re-inventing the wheel and seeking to develop ground-breaking, untested technology. The Ministry assured us that this situation would not be allowed to happen in future. It told us that it had introduced two new governance mechanisms to better challenge its investment decisions and commercial and contract management.

   Recommendation: *The Ministry should ensure that it has a full understanding of the complexity and deliverability of future programmes and that estimates are tested for optimism bias and subject to proper levels of external challenge.*

2. **The Ministry's weak management of the programme meant that it failed to spot and manage problems.** The Ministry had a fundamental lack of knowledge of electronic monitoring services or how they operated when the programme started as the service had always been outsourced. Yet it chose the highest risk procurement strategy in adopting the 'tower model' for delivering the programme. This split the end-to-end service into a four-supplier 'tower' structure, with an integrator to bring the four contracts together. The Ministry was unprepared for what emerged to be a transformation programme rather than a simple re-procurement. It lacked the capacity and capability to manage the difficulties and delays that it created. The Ministry discovered during the procurement process that it had been overbilled by the existing suppliers of electronic monitoring services, which better contract management by the Ministry would have addressed. This has resulted in a repayment of £179 million from Serco and G4S. This matter has been referred to the Serious Fraud Office. The programme lacked continuous leadership, having been led by five senior responsible owners (SROs) in its six-year life. The Ministry now recognises that the model it had adopted will not deliver the system that it wants. It has brought the integrator function in-house and strengthened its commercial and project delivery functions. The Ministry accepted that its oversight of the early stages of the programme and previous contracts for electronic monitoring had been too light but told us that it was confident that it now had the skills to succeed.

   Recommendation: *The Ministry should ensure that it puts the right skills in place to properly oversee future projects from their outset and keeps them there, particularly those being delivered by private contractors.*

3. **We are deeply concerned that, despite the programme already running five years late, further delays are now expected.** The Ministry originally expected the new tags to be deployed from November 2013. But the programme has been subject to serious and successive delays, including two failed attempts to procure the new tags. At the time of the Nation Audit Office's report in July 2017, the Ministry expected to start rolling out the new tags from the end of 2018. The Ministry told us that owing to further delays, the new tags are now expected to be ready in early 2019. While the Ministry assured us that it was "absolutely confident" that the programme will succeed, we remain to be convinced that the programme will be delivered to the new timetable.

    Recommendation: *The Ministry should, by the end of March 2018, write to the Committee with a full breakdown of the timetable for the programme, and write to us with details of any further slippage as the programme progresses.*

4. **The Ministry of Justice's approach to involving small and medium sized enterprises (SMEs) in the programme meant that they were set up to fail.** The decision to adopt a 'tower' structure for the programme was driven in part by the Ministry's aim to increase competition and participation by small and medium sized enterprises. But the terms it imposed on SMEs were unreasonable and its approach ultimately failed. The Ministry appointed an SME, Buddi, as its preferred bidder to develop and produce the new tags in August 2013, but ended the company's involvement in March 2014 after being unable to resolve fundamental differences. In particular, the Ministry expected Buddi to hand over its intellectual property for nothing. Also, different companies in the supply chain were supposed to work with each other but there was no contractual relationship between them, only with the Ministry. It contracted another SME, Steatite, to develop and produce the tags in July 2014, despite the fact Steatite had scored below the minimum benchmark in the procurement. The Ministry ended its contract with Steatite in November 2015 after growing delays to the programme. The Ministry failed to adapt its approach to help smaller suppliers, or to take into account their more limited staffing arrangements and financial resources. The Ministry told us that it regretted that it had been unable to agree a contract with Buddi, and accepted that it would have been better to re-open the procurement exercise rather than to rely on Steatite as the last remaining bidder. We were concerned that this programme is a bad advertisement for SMEs working with government and extremely damaging to SMEs' confidence in government programmes.

    Recommendation: *The Ministry of Justice should, by March 2018, write to the Committee with details of where it has adapted its approach to working with SMEs to ensure that they are able to participate in similar projects in future.*

5. **The programme has so far failed to deliver the intended benefits and potentially undermined confidence in electronic monitoring services, wasting at least £9 million of taxpayers' money.** The Ministry spent £60 million on the programme up to the end of March 2017, yet still relies on the service that was available when the programme started in 2011. The costs it has incurred so far include paying Steatite £4.4 million (plus VAT) in compensation for ending its contract for the programme, on top of the £3.3 million (plus VAT) paid during Steatite's contract. The programme was originally expected to reduce the cost of tagging by between £9 million and £30

million a year but has failed to deliver any tangible benefits so far. The Ministry over-estimated the number of people who would be subject to tagging. The number of offenders who are subject to tagging orders has been falling and is now well below expectations, which could suggest that confidence in electronic monitoring has been undermined. The Ministry of Justice does not know why the take-up of offender tagging has declined. It told us that it was working with stakeholders so that they better understand the role of tags to ensure that they are used more fully as an alternative to custodial sentences where it is appropriate to do so.

Recommendation: *The Ministry should, by the end of March 2018, write to the Committee with an update on how it is working with decision makers in the criminal justice system to ensure they have confidence in the electronic monitoring service and understand their options to use tagging as an effective alternative to custody.*

6. **The Ministry has paid dearly to learn lessons which should have been common sense, and we are not assured that this situation could not happen again.** We were not convinced that the Ministry should have paid such a high cost to learn the lessons it described. The fundamental over-ambition of the programme should have been self-evident. The Ministry accepted that it did not have sufficient knowledge of electronic monitoring services or how they operated as they had always been outsourced. It told us that it was now piloting GPS tagging to understand better where decision makers within the system will choose to use location monitoring as a sentencing option. The pilots should have been undertaken at the beginning of the procurement process, not four years later. The Ministry asserted that it was learning lessons from the pilots which will inform the future delivery of the programme, but it did not explain what these were or how they would change the programme in practice. The Ministry currently has 16 major projects in addition to electronic monitoring, almost all of which are rated as amber or less in terms of confidence in their ability to deliver.

Recommendation: *The Ministry should, by the end of March 2018, publish the lessons it has learned from the programme and how it has used these to improve delivery of its current portfolio of programmes.*

1   The delivery of the electronic monitoring programme

1.   On the basis of a report by the Comptroller and Auditor General,[1] we took evidence from the Ministry of Justice and HM Prison and Probation Service (HMPPS) on the new generation electronic monitoring programme.

2.   Electronic monitoring allows the police, courts or probation services to monitor an offender's location and their compliance with home curfews. When used appropriately, offender-monitoring tags can be a cost-effective alternative to custodial sentences, as well as supporting the offender's rehabilitation in the community and reducing offending. The difference between the cost of a custodial sentence and using offender tags can be substantial. Holding an offender in prison costs around £90 per day, compared to offender tags which cost around £12–13 per day.[2]

3.   The Ministry of Justice currently uses two types of tags: one type for supervising offenders who are subject to a curfew, which use radio frequency transmission; and the second for monitoring the location and movement of an offender, which combine radio transmission and global positioning system (GPS) technology. In 2011, the Ministry of Justice launched a programme to develop a new world-leading, bespoke ankle tag using GPS technology which would be used by all tagged offenders. The programme was intended to reduce the annual cost of tagging by between 9% (£9 million) and 30% (£30 million) as well as provide wider benefits and more sentencing options for courts.[3]

4.   The new tags were originally due to be rolled out from November 2013. Owing to a series of delays, the new tags are now expected to be rolled out from early 2019, more than five years late. We were concerned that so far the programme appears to have been a catastrophic waste of public money to deliver very little. The Ministry of Justice disputed this assessment on the basis that the programme was still being delivered. It told us that it remained committed to the successful delivery of the programme as a sensible alternative to custodial sentences. However, the programme that is currently being delivered is very different in scope to the one that the Ministry originally proposed.[4]

The scope and rationale for the programme

5.   The Ministry told us that it had been "startled and stunned" by the over-optimism of the original project. Electronic monitoring services had been outsourced since their introduction and no one in the Ministry had any direct experience of running them before the programme was introduced. The Ministry admitted that it did not know enough about how offender tagging worked or how it was delivered before it started the programme and that not enough research was done before the programme was approved. In 2006, our previous Committee recommended that the Home Office (which was responsible for the electronic monitoring of offenders prior to the Ministry of Justice's creation in 2007) should carry out further research to establish the role that electronic monitoring

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1   Report by the Comptroller and Auditor General, The new generation electronic monitoring programme, HC 242, Session 2017–19, 12 July 2017
2   Q 1, C&AG's Report paras 1, 1.2, 2.16
3   C&AG's Report paras 2–3, 1.2, 1.5
4   Qq 1–5, 39, 99, C&AG's Report paras 4, 1.8

could play in minimising re-offending. The Ministry could not tell us why this did not happen and accepted that this research should have been undertaken before launching the programme. Some basic research was done, but this was very limited.[5]

6. The Ministry pressed ahead with the plan for the new electronic monitoring programme without evidence that it was needed. HM Prison and Probation Service (HMPPS) accepted that the business case for the programme was "shaky" and that it should have been based on a much more solid evidence base and much better research. The Ministry told us that it had not requested a Ministerial Direction since the current Permanent Secretary took his post in September 2015. It could not tell us whether a Ministerial Direction had been requested prior to this. The simple idea of providing tags to monitor offenders was made overly complicated and resulted in a scope and timetable for delivery that was unachievable.[6]

The Ministry of Justice's approach to procurement

7. The Ministry accepted that it was unprepared for what emerged to be a transformation programme, rather than the simple re-procurement of an existing service. This meant that the programme received severely limited external challenge. The programme wasn't examined by the Major Projects Authority (now the Infrastructure and Projects Authority) until August 2011. At that point, it proceeded straight to a Gateway 2 review, which focused on the arrangements for conducting the procurement. Earlier reviews would have provided opportunities to examine the justification for the programme and explore whether it was achievable. The Ministry accepted that it was wrong to view the programme as a procurement exercise rather than a transformation programme and that it would have been much better to have earlier reviews of the programme. The Ministry assured us that this situation would not be allowed to happen in future. It told us that it had introduced two new governance mechanisms to better challenge its investment decisions and contract management. A new investment committee in particular will examine business cases for future programmes, the timelines involved and the benefits expected.[7]

8. The Ministry chose a high-risk and unfamiliar procurement strategy by adopting the 'tower model' for delivering the programme, which split the end-to-end service into a four-supplier tower structure, with an integrator to bring the four contracts together. The original business case for the programme in 2011 highlighted the 'tower' approach as the riskiest procurement strategy owing to the challenge of procuring, integrating and managing multiple contracts and suppliers. The Ministry told us that it chose the approach because at the time it was considered a new and better model of contracting government services. It thought that it would be a good way of providing greater flexibility in electronic monitoring services, particularly in the light of criticism that it was paying too much money for the existing services and not allowing smaller technology firms to enter the market. Although Cabinet Office encouraged the Ministry to adopt the tower approach, the Ministry's approach to procurement was fundamentally flawed. The Government Digital Service subsequently stated that the model was "not condoned and not in line with government policy".[8]

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5   Qq 1, 5, 11–13, 32, 59–60, Committee of Public Accounts, The electronic monitoring of adult offenders, Sixty-second Report of Session 2005–06, HC 997, 12 October 2006

6   Qq 1, 5, 10, 12, 17, 20, 89, 94–97

7   Qq 13, 17–21, 99, C&AG's Report para 2.2

8   Qq 20–24, 43–43, 59, C&AG's Report paras 10, 3.3, 3.25

The Ministry management of the programme so far

9.   The Ministry's decision to adopt a 'tower' approach for the programme led to serious difficulties and delays during its delivery which it lacked the capacity and capability to manage. The Ministry of Justice originally expected the new tags to be deployed from November 2013. But the programme has been subject to serious and successive delays, including two failed attempts to procure the new tags. At the time of the NAO's report in July 2017, the Ministry expected to start rolling out the new tags from the end of 2018. The Ministry told us that owing to further delays, the new tags are now expected in early 2019. The Ministry assured us that it was "absolutely confident" that the programme will succeed, but that it was trying to be more realistic and honest about the timetable for the programme. It asserted that this was a minor slippage which was in part due to its inability to let one of its contracts during the pre-election period. But the NAO report was published after the election, so it is difficult to see how the additional delays can realistically be attributed to this period. The Ministry could not give us a precise date, or specify the month, by which the programme is now expected to deliver. It committed to writing to us and the NAO if there is any further slippage to explain the causes of any further delays and to provide the most up to date timetable for delivery of the programme.[9]

10.   During the procurement process, the Ministry discovered that it had been overbilled by the existing suppliers of electronic monitoring services, Serco and G4S. Serco and G4S subsequently re-paid the Ministry £179 million. The case has been referred to the Serious Fraud Office, whose investigation is ongoing. Neither Serco nor G4S were allowed to continue in the procurement for the programme, and the contract for providing field services was awarded to Capita, despite the fact that it had no experience of providing electronic monitoring services. It is not unreasonable to expect the Ministry to know what it is paying for when it has contracted private providers to deliver a service. The Ministry admitted that it should have known what it was paying for and not relied on the new procurement process to uncover issues of overbilling. It accepted that this showed poor contract management and that its oversight of previous contracts for electronic monitoring had been too light. The discovery of the overbilling diverted attention from the procurement process and led to delays as bidding for the new contracts was halted.[10]

11.   The Ministry also contracted Capita to be the systems integrator for the programme. As it was responsible for one of the four 'tower' contracts, this created a potential conflict of interest within the company. Capita had a single contract with the Ministry for these two parts of the service so the Ministry relied on Capita to put Chinese walls in place between the two teams working on the programme. The potential for conflicts of interest in the programme was exacerbated when Capita also took over the delivery of the existing electronic monitoring services when the contracts were removed from Serco and G4S following their overbilling of the Ministry. The Ministry accepted that in retrospect its arrangements with Capita meant that it did not have sufficient transparency of the services being delivered in other parts of the programme. As a result, the Ministry has brought the role of programme integrator back in-house.[11]

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9   Qq 2–3, 99, 109, C&AG's Report paras 4, 1.8–1.10, 2.5
10   Qq 52–56, 59, C&AG's Report paras 8, 1.4, 1.9
11   Qq 24, 43, 47, 50–51

12.   The Centre for Crime and Justice Studies described the delivery of the programme as being so shambolic that it resembled an act of sabotage. The Ministry accepted that it had made mistakes in the delivery of the programme so far and that the approach it had used would not be the one it would choose now. It accepted that it should be more ready to use off-the-shelf products where these are already available and appropriate rather than re-inventing the wheel and seeking to develop ground-breaking, untested technology.[12]

13.   In response to the problems experienced during the programme, the Ministry has strengthened its commercial and project delivery functions. It told us that it now has more graduates from the Major Projects Leadership Academy than any other Department apart from the Ministry of Defence. Around 100 staff within the Ministry have now either taken part in the Leadership Academy or the project leaders programme run by Cranfield School of Management. Continuity in the leadership of a programme is also crucial to its success. While the programme has been led by five senior responsible owners (SROs) in its six-year life, we were pleased to hear that the current SRO has now been in place for 18 months and remains committed to delivering the programme. The Ministry told us that it was now confident that it had the skills in place to succeed.[13]

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12   Qq 5, 19, 39
13   Q 58, 99, 106, C&AG's Report para 3.27

2   The legacy of the programme

The Ministry of Justice's relationship with small and medium sized enterprises

14.   The decision to adopt a 'tower' structure for the programme was driven in part by the Ministry's aim to increase competition and participation by small and medium sized enterprises (SMEs). The Ministry appointed an SME, Buddi, as its preferred bidder in August 2013 to develop and produce the new tags. But it ended the company's involvement in March 2014 after being unable to resolve fundamental differences over the sharing of data between providers. The Ministry contracted a second SME, Steatite, in July 2014 to develop and produce the tags. Steatite had scored below the minimum benchmark in the originally procurement process, but was the only remaining bidder. Although it had a good track record of providing a range of technological services, it did not have any experience of delivering the type of tags required for the programme. The Ministry ended its contract with Steatite in November 2015 after growing delays to the programme. The Ministry recognised that it was responsible for some of the delays and paid Steatite £4.4 million in compensation. The Ministry told us that it regretted being unable to agree a contract with Buddi and accepted that it would have been better to re-open the procurement process than to rely on the last remaining bidder.[14]

15.   We were concerned that the Ministry's approach to working with SMEs set them up to fail. The Ministry admitted that it had been more difficult than necessary for SMEs to be involved in the programme and that it should have been more frank about the complexity of the programme and the difficulty for an SME of building tags at scale. It had too many and too complicated specifications for the new tags and it did not make its requirements clear enough. The Ministry originally had 900 separate requirements for the new tags, which it has since reduced to a more manageable 100 requirements. SMEs were surprised by the unusual and unnecessarily high burdens of the procurement and programme management process imposed by the Ministry of Justice. The Ministry required providers to attend up to 40 meetings per week. SMEs also found it difficult to work with the Ministry of Justice due to the financial stress caused by the Ministry's approach to making payments and the time between payments.[15]

16.   The experiences of Buddi and Steatite in this programme is a bad advertisement for SMEs working with government in future and potentially extremely damaging to SMEs' confidence in government programmes. The Ministry told us that it valued its contractual relationships with SMEs and that 34% of its contractual spend is currently spent through SMEs, which is above the government's target of 25%. It accepted that the requirements it placed on providers to attend so many meeting was excessive and confirmed that it no longer took that approach. It also accepted the importance of paying businesses promptly and assured us that it now ensured that this took place. The Ministry committed to making its contracts for large, national programmes more SME-friendly in future.[16]

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14   Qq 62–65, 73–76, C&AG's Report paras 2.2, 3.2, 3.5, 3.8, 3.32

15   Qq 61–62, 65, 69–70, 77–78, 87

16   Qq 61, 67, 70–71, 79, 83–87

The costs and benefits of the programme

17. The Ministry of Justice spent £60 million on the programme up to the end of March 2017 out of an estimated total budget of £130 million. The costs it has incurred so far include paying Steatite £4.4 million (plus VAT) in compensation for ending its contract for the programme, on top of the £3.3 million (plus VAT) paid under Steatite's contract. The Ministry disputed that this had been an irresponsible waste of public money, asserting that just £5 million of the cost of the programme so far has been wasted, equivalent to the £4.4 million (plus VAT) compensation paid to Steatite.[17]

18. The programme was originally expected to reduce the cost of tagging by between £9 million and £30 million a year. These savings relied in part on the Ministry's estimate that between 160,000–220,000 offenders would be subject to tagging orders during 2016–17. But the Ministry dramatically over-estimated this number: in 2016–17, less than 65,000 offenders were given tagging orders, equating to around 12,000 individuals wearing tags at any one time. The Ministry told us that the over-estimate was in part due to overbilling by previous suppliers, meaning that the baselines for its estimates were inaccurate. It also told us that it had expected legislation to be introduced that would allow tagging to be used as a standalone sentence, which did not materialise. It now expects the number of offenders wearing tags at any one time to remain at around 12,000 each year.[18]

19. The number of offenders who are subject to tagging orders has been falling over the lifetime of the programme. We were concerned that this suggested delays to the programme have undermined confidence in electronic monitoring. The Ministry of Justice could not tell us why take-up of offender tags was so low, but asserted that it was satisfied that there was not a lack of confidence in tagging itself. It told us that the decline in the number of offender tags was consistent with a long-term decline in community non-custodial sentences more generally, which had started before the programme. It attributed this in part to fewer minor cases being brought to court, and that offender tagging is not normally appropriate for more serious cases. HMPPS attributed the decline in part to a switch from court orders with rehabilitation orders to more suspended sentence orders, which have tended not to be given electronic curfew tags alongside them. The Ministry told us that it was working with stakeholders so that they better understood offender tags to ensure that they are used more fully as an alternative to custodial sentences where it is appropriate to do so. It told us that it had discussed offender tagging with representatives from the police, probation and prison services and the judiciary.[19]

20. In October 2016, the Ministry started pilots in two regions to improve its evidence base on the effectiveness and cost-effectiveness of GPS location tagging. However, it is not yet clear whether the evidence provided by the pilots will be enough. The Ministry estimated that up to 1,500 could take part in the pilots. Yet in April 2017, just 97 people had taken part. The Ministry told us that 491 people had now taken part in the pilot, which it hoped would include a total of between 600 and 1,000 people when it is complete. The Ministry asserted that it was learning lessons from the pilots which will inform the future

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17   Qq 6–7, 81–82, C&AG's Report para 3.32

18   Qq, 10, 16, C&AG's Report paras 9, 1.5, 2.21

19   Qq 14–16, 33–38, C&AG's Report Figure 3

delivery of the programme. It did not detail what these lessons were, or how they would change the programme in practice, nor has it written them down as part of a formal or published document.[20]

21. More broadly, we were not convinced that the Ministry should have taken five years and over £60 million of taxpayers' money to learn the lessons it described taking from its experience on this programme. These include some of the fundamental basics of programme management and should have been self-evident. The Ministry currently has 16 major projects in addition to the electronic monitoring programme. Of those that are included in the Government Major Projects Portfolio and rated by the Infrastructure and Projects Authority, three quarters (10 out of 13 projects) are rated as amber or worse in terms of the confidence in their ability to deliver. We do not expect to see the failures of this programme repeated in any of the Ministry's other major projects.[21]

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20   Qq 28–31, 71, C&AG's Report para 2.16

21   Qq 2, 25, 59, 100–103, C&AG's Report para 3.29, Infrastructure and Projects Authority, Annual Report on Major Projects 2016–17, 18 July 2017, Annex C

Formal Minutes

Monday 22 January 2018

Members present:

Bim Afolami	Layla Moran
Heidi Allen	Gareth Snell
Sir Geoffrey Clifton-Brown	
Caroline Flint	

In the absence of the Chair, Sir Geoffrey Clifton-Brown was called to the chair.

Draft Report (*Offender-monitoring tags*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 21 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Fifteenth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 24 January 2018 at 2.00pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Monday 13 November 2017   *Question number*

Richard Heaton, Permanent Secretary, Ministry of Justice, **Michael Spurr**,
Chief Executive Officer, HM Prison and Probation Service, and **Adrian Scott**,
Senior Responsible Owner, Electronic Monitoring Programme   Q1–109

List of Reports from the Committee during the current session

All publications from the Committee are available on the publications page of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Tackling online VAT fraud and error	HC 312 (Cm 9549)
Second Report	Brexit and the future of Customs	HC 401
Third Report	Hinkley Point C	HC 393
Fourth Report	Clinical correspondence handling at NHS Shared Business Services	HC 396
Fifth Report	Managing the costs of clinical negligence in hospital trusts	HC 397
Sixth Report	The growing threat of online fraud	HC 399
Seventh Report	Brexit and the UK border	HC 558
Eighth Report	Mental health in prisons	HC 400
Ninth Report	Sheffield to Rotherham tram-trains	HC 453
Tenth Report	High Speed 2 Annual Report and Accounts	HC 454
Eleventh Report	Homeless households	HC 462
Twelfth Report	HMRC's Performance in 2016–17	HC 456
Thirteenth Report	NHS continuing healthcare funding	HC 455
Fourteenth Report	Delivering Carrier Strike	HC 394
First Special Report	Chair of the Public Accounts Committee's Second Annual Report	HC 347

Public Accounts Committee

Oral evidence: Offender Monitoring Tags, HC 458

Monday 13 November 2017

Ordered by the House of Commons to be published on 13 November 2017.

Watch the meeting

Members present: Geoffrey Clifton-Brown (Chair); Chris Evans; Gillian Keegan; Shabana Mahmood; Nigel Mills; Gareth Snell.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Oliver Lodge, Director, NAO, and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1-109

Witnesses

I: Richard Heaton, Permanent Secretary, Ministry of Justice, Michael Spurr, Chief Executive Officer, HM Prison and Probation Service, and Adrian Scott, Senior Responsible Owner, Electronic Monitoring Programme.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Report by the Comptroller and Auditor General

The new generation electronic monitoring programme (HC 242)

Examination of witnesses

Witnesses: Richard Heaton, Michael Spurr and Adrian Scott.

Chair: Good afternoon, ladies and gentlemen. Welcome to this afternoon's hearing of the Public Accounts Committee. Today, we are considering the NAO's Report on the new generation electronic monitoring programme and we will be looking at why the Ministry of Justice pressed ahead with such a grand plan without evidence that it was needed, the problems created by the high-risk approach that they chose to deliver the programme and what wider lessons can be learned. In case anybody is following us and tweeting, our hashtag today is #tags.

May I extend a warm welcome to our witnesses? We have in front of us Adrian Scott, who is the Ministry of Justice permanent secretary— *[Interruption.]* No, sorry.

Adrian Scott: That's quite a promotion!

Q1   **Chair:** Anyway, we have Adrian Scott, Richard Heaton, who is the permanent secretary, and Michael Spurr. You gentlemen have been before this Committee many times before, so we welcome you for a return appearance.

Perhaps I could ask you, Mr Heaton, how committed you are to this programme. Given the huge difference in cost per year between a prison place, which costs about £30,000, and a tag, which costs £800, and also the benefit to the social wellbeing of the prisoner themselves of being kept out of prison, how committed are you to this programme?

Richard Heaton: Thank you, Chair. Very committed. We remain convinced that electronic monitoring is well established as a cost-effective alternative to custody, but also has enormous potential, both in its traditional radio frequency curfew form and in the newly emerging technology of satellite tracking, so we remain committed to this programme, which is in flight, which is now, I am pleased to say, set up to succeed. However, we have been startled and stunned by some of the over-ambition of the project as originally conceived. The over-ambition of the original project and some—

Chair: We will come on to that. Can we leave the over-ambition of the historical project? We will come on to the detail of that.

Richard Heaton: We remain committed to this programme, committed to its successful delivery and committed to it as a sensible alternative to custody.

Q2   **Chair:** Okay. Given that your Ministry has 16 major projects, all of which are either at amber or red, or amber or less, in terms of their deliverability, how confident are you that you can deliver this project on time in 2018, which is your latest predicted date that it should come into operation?

Richard Heaton: One thing none of us will do during this hearing is to make any claims that are rash or over-ambitious, because that is partly what got us into the delayed position we are in now. We are absolutely confident that the programme will succeed. I am incredibly confident in the team that Adrian has put around himself and in Adrian's SRO-ship of the programme itself; he has been SRO for 18 months. On whether it will deliver in 2018, I will just sound a note of caution. There have been some delays since the NAO Report, so we are probably looking at early 2019. So I don't want to over-commit, but we are absolutely confident that it will deliver to that sort of timescale.

Q3   **Chair:** I think it might be right and proper for me as Chair to push you a bit on that, given that we now have Brexit. This has now slipped, according to the NAO Report, from 2018 to 2019. Just remind the Committee of how late it is already—it is going from year 5 to year 6—so how confident are you of the 2019 date?

Richard Heaton: The target date as at the date of the NAO Report was late—the end of 2018. I am now saying early 2019, so I am not slipping a year, but again I say to the Committee that I am going to be totally realistic and honest with the projections. I don't want to over-promise, but we are looking at 2019. That slippage was partly due to our inability to let one of the contracts during the pre-election period, when things grind to a halt to a certain extent. So that's all; it is a minor slippage, but I want to be frank with the Committee.

Q4   **Chair:** The Committee will appreciate your candour in this respect. Can I press you one further time on the 2019—the beginning of, you are now saying—target? That is taking into account all the extra work you might be involved with for Brexit, is it?

Richard Heaton: Yes. Adrian's programme is fairly well insulated from Brexit. The relationships with the suppliers are good. The contracts are all in a good place. Everyone knows what they are doing. And in particular, the integration function, which we have taken on from Capita, is working well, and we are getting some good results from the pilot. So everything is set up to succeed.

Chair: We will certainly come on to the integration project.

Q5   **Shabana Mahmood:** Mr Heaton, you used the words "startled" and "stunned" to describe what you inherited in terms of the set-up of this programme. I would go a bit further than simply being startled and

stunned. You would have to accept that the programme has been a total disaster from start to finish.

Richard Heaton: No, it hasn't, because it is in mid-flight and it is going to deliver. It is going to be a successful programme. The ambition set for it at its original inception in 2012-13 was over-ambitious. The timeline in particular was over-ambitious, so the delay has to be measured partly against a very over-ambitious timetable. There were a number of other things that, frankly, none of us would have done the same way if we had another go at it. We failed to pilot it as we probably should have; the contractual model was very complicated; the specifications we asked our providers to meet were probably too complicated; we probably did not have sufficient focus during the entirety of the programme; and continuity of leadership suffered. All those things are lessons that we are learning, and not just academically, because the programme is in flight and we are determined that it will succeed.

Q6 **Shabana Mahmood:** You say it is in flight, but you have already been delayed for five years. There have been £60 million of sunk costs out of an estimated £130 million budget for the total cost of the programme. You have had a massive over-estimate of the number of people who would be subject to tagging, two failed procurements and five senior responsible owners for the programme since it began. I go back to my initial point: total disaster. It would be better if you just owned up to that, rather than merely saying it was over-ambitious, Mr Heaton.

Richard Heaton: For each of those categorised errors or faults, I am being completely frank: we got it wrong. But I reject characterising the whole thing as a disaster, because it is a programme in flight and I am determined that it will succeed. You are absolutely right that the £60 million is money spent, but it is not all wasted money. Some £5 million is probably wasted money—fruitless money, in the terminology—but the rest of it has been spent to get the programme, at last, into a position where it can deliver.

Q7 **Shabana Mahmood:** So you say that only £5 million of the £60 million is wasted money?

Richard Heaton: £5 million is fruitless expenditure in the technical sense. The rest of it is—

Q8 **Shabana Mahmood:** You make the very confident assertion that it is going to be a successful programme, but we appear to have spent a huge amount of time and a lot of expense to essentially go back to a position where you are buying what you already had five years ago, from the same large supplier that you wanted to drop your reliance on. That does not appear to be a very competent way of running a programme, does it, Mr Heaton?

Richard Heaton: If that was the end state I would agree with you entirely, but even in what we have done to date we have saved money in the running costs to the sum of £6 million per year. We have set up the programme to succeed. We have put in place contracts that will deliver us

a proper, future-proofed tagging system. We have laid the foundations for satellite technology, which we did not have before. The old contracts had come to their end in technological terms and we will replace them with something better. It is my regret that it has taken so long, and that is something we can explore, but I do not want to regard the whole thing as a failure because it is not. It will succeed.

Q9   **Shabana Mahmood:** We will explore later in the hearing the basis on which you assert that the programme will succeed and whether there are any issues with that. I want to look at the evidence base for monitoring more generally. Would you agree that there is no statistically significant effect on levels of crime or reoffending rates between tagging, prison and other options?

Richard Heaton: One of the areas of over-ambition in the programme as originally conceived was that very high numbers were projected, and it was thought that tagging was a panacea that would produce a decent alternative to every other disposal or treatment, with better rehabilitative outcomes. We are a bit shrewder than that now. There are some areas where it is clear that tagging has a successful part to play in the criminal justice system: for example, as something to strengthen a bail decision, to police the licence of a serious offender on licence or to police home detention curfew. Those are all areas where tagging has a proven part to play. We are not over-promising the role of tagging in other areas. That is why the pilot on the satellite tagging is important, so that we can sensibly work out where sentences will use the tags, how they will use them, and what the outcomes will be. I do not want to over-promise on the evidence base.

Q10   **Shabana Mahmood:** Were the three benefits of tagging that you just mentioned known and understood as proven benefits of tagging before the decision to move to a new system was made?

Richard Heaton: My colleagues might want to come in on this. I do not think that in 2012-13, when the programme was set up, we knew nearly as much as we should have known or needed to know about the efficacy of tagging. It was a fairly black box to us. We had never run tagging before. It had always been contracted out, and looking back on the business case now, I think the evidence base was shaky. We now know more than we did, but we do not claim to know everything, which is why we are piloting satellite tagging, for example. My colleagues might want to come in on that?

Michael Spurr: In general terms, we certainly knew there were benefits from electronic monitoring in terms of avoiding the use of prison places, particularly for those on bail and those who were released earlier on home detention curfew. There was a 2006 NAO Report that said that electronic tagging delivered good value for money on that basis. It recommended that more research be done; not enough research was done before we went down this programme. That is something we have to acknowledge and accept.

The aim of the programme when it was set out was actually to replicate the existing service where we knew there was benefit and to provide opportunity in the future for use of satellite tracking and location monitoring as that technology developed. The aim was to deliver a programme—which clearly we did not do—that delivered the existing service more cost-effectively and cheaper than we were delivering it, and that was future facing, to be able to take on satellite tracking as it developed. That was over-ambitious, but that was the aim of the programme at the time on the basis of the evidence that was available.

Q11 **Shabana Mahmood:** It didn't have to be that way though, did it, Mr Spurr? The Public Accounts Committee in 2006 recommended that you carry out some research in this area. Why was no research carried out and why did it take 10 years to work out that maybe you should pilot some of this stuff?

Michael Spurr: I cannot answer entirely why research did not take place. That was when—

Q12 **Shabana Mahmood:** Perhaps Mr Heaton could.

Richard Heaton: As to why research was not done following the 2006 Report, I cannot tell you right now. I can tell you that the failure to pilot is something we now all regret. I think it was probably done because the Department wanted to see results quickly and had faith in the contractors being able to deliver more quickly than we now realise they could have delivered. There was an over-optimistic belief that tagging could be used as an alternative to other disposals, and without an insight into either behaviour of sentences or behaviour of offenders under a tagging regime.

Q13 **Shabana Mahmood:** Mr Spurr, do you have anything to add?

Michael Spurr: No, other than that there was some basic research done, I understand, by the Home Office, but it was very limited. I accept that by the time we came to renew the contracts we had, which were running out in 2013, we were effectively looking at this as a re-procurement, wanting, through that re-procurement, to provide options for the future. What we got wrong was not recognising that we were setting in train a major transformation programme. That should have been based on a much more solid policy base than we had, and we should have had better research to be able to launch it in that way.

Q14 **Chair:** Can I ask you, Mr Heaton, the original figures were terribly optimistic weren't they? It was originally estimated that perhaps some 65,000 tags would be worn each year. Today the average is—what is it, about 12,000?

Richard Heaton: It is 12,000.

Q15 **Chair:** That is a huge drop on what was originally estimated. Do you think that was because the number of cases deemed by the probation service or the Ministry of Justice was far less than was actually the case, or was it because the tagging system was so unreliable? Can we relate that going forward to the number of tags that you expect to be used when the

system does come into operation, as you say, in 2019?

Richard Heaton: Part of it was the optimism you quite often get when people are constructing business cases. Part of it was to do with the over-billing inheritance we picked up from the two predecessor suppliers, so our baseline figures were inaccurate and we probably overestimated the baseline. Part of it was due to a belief that we would have legislation that would allow tagging as a standalone sentence, and that legislation did not come about, so those are three factors that led to the overestimate. I cannot quantify those three factors.

Q16   **Chair:** But you now must have some estimate. You are bringing in an entirely new system in 2019. You must have an estimate. Is it going to be the present level of around 12,000?

Richard Heaton: Yes, roughly that level.

Chair: Roughly that level.

Richard Heaton: Yes. The bit that is unknown is the take up of satellite technology, which is new to the system and we are being very cautious. I do not know if we put a figure on that.

Adrian Scott: Our assumption around the satellite piece is around 1,000 cases in a year. Some of the pilot work we are doing suggests that figure is broadly right. When we actually roll it out, obviously that will be true, but those are the assumptions we are making.

Q17   **Shabana Mahmood:** Mr Spurr, in your answer to my previous question, you said that this was a major transformation programme, which it clearly was. I find it troubling, then, that none of you seems to be putting particular emphasis on the decision to go ahead with it on a pretty non-existent, or flimsy at best, evidence base, other than simply saying it was over-ambitious. At the point at which this major transformation programme was being decided, why wasn't there a look back to see what other evidence existed, what the PAC had previously said, and what other organisations may or may not have said? Why didn't that happen?

Michael Spurr: The point that I made was accepting what I think the NAO Report makes clear: it was a transformation programme—looking at it, I accept that now—but at the time we were required to re-procure the services that we were then getting delivered by G4S and Serco, because the contracts were coming to an end.

Q18   **Shabana Mahmood:** But why did nobody clock that at the point at which you decided to have a brand new, shiny system, it obviously moved from being a simple act of re-procurement to being a transformation programme?

Michael Spurr: We were trying to look at what the issues were at the time, and we wanted to provide much greater flexibility in the delivery of these services, to reduce the cost, and particularly to provide the opportunity for technology providers—particularly hardware and software providers—to come into this market. The previous arrangements were a

vertical operation, effectively by G4S and Serco, which managed the whole system. We were looking to take on a revised procurement—that is how it was seen, and I accept that was wrong—that would provide much greater flexibility going forward. It wasn't that we did not recognise that we needed some change, but the focus was on the contracting arrangements and trying to improve those, not on the policy that would drive this, which I accept we should have focused on.

Looking at this now, you are quite right to ask why we did not look at it in policy terms. We had effectively accepted the case for electronic monitoring coming out of the previous NAO Report. We had accepted that there was a potential for using location monitoring in the future. We were looking to procure arrangements that enabled us to match those things at a lower cost to the taxpayer. That is how we began to take the programme forward. It is perfectly legitimate and right for you to say that we should have spotted it and we didn't, in the sense that we should have had an underlying policy rationale for what we wanted to do with the location monitoring. But at the time we wanted to have that as something that we could use in addition to the basic service that we wanted, to get a cheaper rate and have, rather than a duopoly, a more flexible approach with other providers coming into the market, particularly technological firms, as that was developing.

Q19 **Shabana Mahmood:** You used the word "wrong" to describe the failure to categorise it as a transformation rather than a re-procurement. I put it to you that it wasn't just wrong; it was so shambolic that it looks rather like active sabotage, which is how one of the commentators described it.

Michael Spurr: I don't think I would come to that conclusion; I don't think that is a fair conclusion. I have tried to explain how we were looking at this at the time. I accept that it would have been much better to have had—

Q20 **Shabana Mahmood:** But each of the points that you have made, Mr Spurr, in your explanation of how you got to this point all raise, for me, as a non-expert in this area, a big unmistakable red flag that actually this was not just re-procurement; you were doing something brand new. You had not done any testing and you did not have any idea of the evidence behind the system that you already had, so why press so far ahead with a brand new, untested thing?

Michael Spurr: Because there were a load of flaws in the previous provision of the system. In terms of the actual way we went forward with that procurement, I accept that we adopted what was then seen to be a new and better model of contracting—the tower model—which later became a model that was not seen to work well, but from our perspective we had a duopoly of two big providers in the system that managed the whole of the service. It looked like a very good way of providing greater flexibility into the system, and we looked at it primarily as a procurement issue, rather than, as you are saying, a policy issue.

It would have been better to have looked at the policy first and then done the procurement, but there was a rationale for trying to do the procurement differently, given that there was legitimate criticism at the time that we were paying too much money for electronic monitoring and not allowing smaller technological firms to get into the market. That was the thinking. It was not shambolic thinking, but looking at it now, it would have been better to have had a much stronger policy base for how we wanted to use location tracking. We had simply accepted that location tracking would be a good addition to the system.

Q21   **Shabana Mahmood:** Do you agree that the categorisation of this as a re-procurement was the reason why the IPA did not do a gateway 0 or gateway 1 assessment and went straight in at gateway 2? The capacity for external review or challenge at the point at which this programme was conceived was severely limited.

Michael Spurr: I accept that. That is one of the key lessons that comes out. The NAO makes that point in its Report. I accept that. It would have been much better to have a gate 0, but we did not, precisely as you say, because it was seen that we were re-procuring existing services differently.

Q22   **Gillian Keegan:** I want to come in on the procurement side because, having been an IT procurement manager myself, I have some insights. The procurement was absolutely shambolic. You had untested providers; you had no clear accountability for who was responsible for the service; and you did not have an integrator. I do not think that whoever put this down as a procurement strategy had any idea what they were trying to achieve. It was completely fundamentally flawed.

Richard Heaton: We accept some of that. The tower model that we put in place with Cabinet Office encouragement allowed for an integrator function.

Q23   **Gillian Keegan:** Who encouraged you to put that in place?

Richard Heaton: The Cabinet Office.

Q24   **Gillian Keegan:** So they were running the procurement strategy?

Richard Heaton: No, but it was the way big technology was done in that period of Government. We did contract for a systems integrator—

Gillian Keegan: It actually wasn't. It was an idea of the way it could be done, not of how it is done.

Richard Heaton: Fair enough. The point I was making is that we did contract for there to be a systems integrator. That was the fifth part of the tower model. Again, in retrospect, that meant that we did not have sufficient transparency of the goods and services being delivered in other bits of the tower contract. We have taken steps to bring that integrator function in-house. That is now happening in Adrian's team.

Q25   **Gillian Keegan:** The whole point of management is so you do not sit

there and say that everything was wrong in retrospect—that is the whole idea. You are supposed to stress test. Are there suppliers? Is this proven technology? What is the end-to-end system? What are the failure rates? Where are the risks? Those are the management questions that you ask. Who was asking them?

Richard Heaton: Every management step we have taken in the last two years has been to strengthen this programme and to enable it to succeed.

Gillian Keegan: It has been going on for a lot longer than two years.

Richard Heaton: One of the interventions that we have made has been the decisive one, partly to bring an end to the unsuccessful procurements in lot 3 and to bring the integrator function in-house because we recognised that the model that was set up to deliver electronic monitoring in 2012-13 would not deliver a decent system for us. Bringing the integrator function in-house was crucial.

Q26 **Gillian Keegan:** Anybody could have looked at this and known that from the outset. It was designed to fail.

Richard Heaton: All I can say is that there were big IT contracts in Government being let on this sort of model. I do not disagree with you. That is not a model that would have delivered success in this programme. The model we now have, where we are properly integrating things in-house and, as it were, becoming the prime contractor, is set up to succeed.

Chair: Ms Keegan, I will let Shabana Mahmood develop her argument. There will be more opportunities on this procurement issue, I am sure.

Q27 **Shabana Mahmood:** To go back to when the programme first started, if you have more people on the tag and they break the rules, that creates more work for the police and probation services. What work was done at project conception to talk to the police and probation services about the possibility of increased workloads?

Michael Spurr: In terms of probation services, at that point, the then National Offender Management Service was responsible. It had probation colleagues as part of the programme team to ensure there was operational understanding of potential implications for probation.

In terms of the police, generally there was some engagement. There was a general desire from a lot of forces that were using small-scale satellite technology to have access to a larger satellite technology provision. There was some work done, but I do not have the whole detail of that. Clearly I am prepared to accept what comes out of the Report—that insufficient work was done for reasons that I have already brought up.

Q28 **Shabana Mahmood:** We now have a pilot that was started last year. The projections were that it would have 1,500 people on a tag who would be subject to the pilot. There are 97 currently within that pilot programme. What are you going to learn from a programme that only has 97 people on a tag taking part?

Adrian Scott: The current figure on the pilot is 491.

Q29   **Shabana Mahmood:** So it has gone up from 97?

Adrian Scott: Yes. I think our initial estimate was that we hoped to put something between 600 and 1,000 subjects through that pilot. We have actually learned quite a significant—

Q30   **Shabana Mahmood:** So is the 1,500 a number on capacity rather than on what you hoped to get from it?

Adrian Scott: Yes. I think we have learned a significant amount from it towards delivery of the national programme. One of the benefits that we have is that we now understand better where decision makers within the system will choose to use location monitoring, which is exactly one of the criticisms levelled against us in the National Audit Office Report. The pilot has been extremely helpful to us in understanding that, and we have seen some significant benefits around bail and around parole board cases, where we have seen a particular increase in the numbers. That has been helpful in terms of how we might then procure the national system and support decision makers to make best use of that technology when we deliver it.

Q31   **Shabana Mahmood:** So you are confident that the pilot is going to enhance and increase that understanding?

Adrian Scott: It already has, and will continue to do so.

Q32   **Shabana Mahmood:** That rather goes back to the original point: why not do it in 2006, when another Committee told you it should be done? You could have learned all these lessons 10 years ago.

Richard Heaton: I don't think there is a good answer to that. We should have done.

Q33   **Shabana Mahmood:** Figure 3 in the National Audit Office Report shows that levels of tagging are declining. Even accepting that your baselines were wrong, as you already have done, does that not rather suggest that sentencers are losing faith in tagging as an option?

Richard Heaton: I don't think so, but it is a risk that we are obviously aware of. We talk to sentencers a lot, to the Magistrates Association and so on—

Q34   **Shabana Mahmood:** You say you don't think so. I have only got the raw data to look at, and I would conclude that that is in fact the case.

Richard Heaton: Okay, but it is also consistent with a long-term decline in community sentences generally. That has been going since before this programme started in 2010. So there is something, possibly, about attitudes to community sentences. There is something about case mix. Fewer minor cases are being brought to court, and more serious cases, which do not generally attract this sort of treatment. I am just a bit cautious about saying this is a tagging effect. Certainly, the sentencers and judges I talk to do not say that they have lost confidence in tagging,

so I don't think that is the correct conclusion. I think it is part of a general long-term decline in long custodial sentences.

Q35 **Shabana Mahmood:** So if it is part of a general trend, what are you doing, or what more can you do, to encourage sentencers to support tagging properly as an option?

Adrian Scott: We are doing quite a lot of engagement with sentencers, but—

Q36 **Shabana Mahmood:** I don't like "quite a lot"; be specific about the type of engagement, how much and when, please.

Adrian Scott: I have a monthly stakeholders' group where I talk to the police, probation and prison governors, and I have seen the judiciary three times in the last six months to talk through the tagging position. As you say quite rightly, one of the things that we are keen to do when we deliver the service in 2019 is to make sure that it is used more fully. One of those conversations is about the learning from the pilot that we just talked about—understanding what decision makers would use around location monitoring—but that is actually quite a small percentage in terms of what we are looking at delivering going forward. We continue to have ambitions to keep the levels of curfew technology in use, and indeed to expand that use as well in more imaginative ways.

Richard Heaton: For my part, I mention this to almost every senior judge I talk to. We are absolutely sure that we can do more to, as it were, market the case for tagging in those cases where it is a proper, sensible alternative to custody. Curfew tagging, after all, is the majority of tagging, and there has never been anything wrong with it. It has always worked, and part of what we have done, despite this lapse in the procurement, is to keep the curfew tagging process going. Curfew tagging has always been effective and available to all the courts at every level.

Q37 **Chair:** Mr Heaton, I am puzzled. Given the burgeoning number of prisoners at the moment and the clear social welfare benefits of not sending people to prison, or even shortening people's sentences by the use of a tag after prison, why are the tagging numbers so low?

Richard Heaton: I do not know the full answer to that, beyond saying that community disposals are low generally. I am pretty satisfied that it is not a lack of confidence in tagging itself, so I do not think that that can be isolated as a reason, but I do not think that we quite know, beyond that, why there is this decline in community non-custodial sentences.

Q38 **Chair:** Mr Scott said that he had been on a "marketing exercise"—I think those were your words, almost—on the benefits of tagging. This seems to be a very weak way of going about it. You are introducing an entirely new and—you hope—all-singing, all-dancing system. Surely we will want to make the maximum sensible use of it—

Richard Heaton: We absolutely will; I just do not want to over-market it. There is a danger here. If you over-market tagging and it is used in addition to other non-custodial impositions, there is a danger of, as it is

sometimes called, up-tariffing, where people are subject to tagging as well as community disposals, which leads to greater breaches and therefore a rise in the prison population. We have got to be a bit careful about a wholescale marketing of this as the panacea. That was the mistake our predecessors made when this programme was incepted with its 22,000 projection, but the strategic, correct marketing of tagging as the appropriate disposal is something we are keen to do more of.

Michael Spurr: I was only going to add two other points. First, a good deal of the tagging is for those on bail, and there was an increase in tagging while the numbers remanded into custody actually reduced; that has levelled off for a period. Effectively, we have not grown more cases for people on bail to be tagged. Again, that is something we are looking at in the pilots. Also, the number on home detention curfew released from custody for other reasons has reduced. We are looking at our processes there, because that is something to do with the pressure on the prison system as well, and we are looking to streamline and improve those processes.

I think both of those are reasons why the tagging has effectively stabilised at around 12,000 at the moment, in addition to the other potential options where tagging can be used to support wider community sentences. In community sentences, there has been a switch from court orders with rehabilitation orders to more suspended sentence orders, and suspended sentence orders generally have not received electronic curfew tags alongside them.

Q39   **Shabana Mahmood:** Mr Heaton, the upshot of your answers to my initial questions was that you were essentially saying that the existence of any future tagging programme sort of indicates the success of this programme, which you can tell from my tone I do not find particularly acceptable. This particular programme has failed. It was an irresponsibly optimistic use of public money and I do not believe that you would use your own money in this way, would you?

Richard Heaton: No, I did not say that this programme to date has succeeded. This programme will succeed, but I have gone out of my way not to say that everything that has happened so far has been correct. We have made many mistakes. We have been subject to many external shocks, but some things we did wrongly and we have confessed to that.

So I am not saying the programme to date has delivered; it has not delivered successfully. But we now have in place, finally, the foundations for successful delivery in 2019. I am sorry; I did not mean to claim that this has been successful to date. I was trying to say that this has laid the foundations for success.

Q40   **Shabana Mahmood:** But you would never do this with your own money, would you?

Richard Heaton: I hope that, in that unlikely event, I would avoid some of these pitfalls, whether I am spending taxpayers' money or my own—

Q41 **Shabana Mahmood:** A simple no would suffice, for the benefit of my constituents. For them—Mr and Mrs Average Normal Person in Birmingham, Ladywood—this is a catastrophic waste of public money to deliver absolutely nothing. You would never do that with your own money, would you?

Richard Heaton: The investment the taxpayer has made will deliver over the medium term; it has not delivered to date. And some aspects of this have not been money well spent.

Q42 **Chris Evans:** Mr Heaton, I am going to be a little bit different to my colleague; I would say that this replacement tagging was based on sound, logical reasons. You would agree with that, yes?

Richard Heaton: The satellite tag?

Chris Evans: Replacing the tagging system was based on logic, yes?

Richard Heaton: Yes.

Q43 **Chris Evans:** Then, could you tell the Committee why you went for the riskiest tower model, when you were warned by the Government Digital Service that it was not in line with Government policy? Why did you use the highest-risk procurement strategy, when you were warned about this, and there were voices within the Ministry of Justice that were warning against adopting the model? Why did you adopt the tower model in the first place?

Richard Heaton: We have to put the sequence into the correct order. When the Government Digital Service told Government that the tower model was not preferred, it was after the tower model here had been adopted. When the Ministry adopted the tower model, it was in accordance with Cabinet Office guidance, and it was thought to be a way of multi-sourcing technological behaviour. You avoided one company trying to do everything, which necessarily limits the market to big, big players. It was thought to be a way of getting other players into the market in their specialist niches, with a single person integrating it on behalf of the customer.

That was the model at the time, and that was the one we adopted. It is not a model, as we discussed in the previous exchange, that would have delivered success in this programme, which is why we have now departed from it by bringing the system integrator function in-house. It was a contract let to Capita—

Q44 **Chris Evans:** I have to stop you there, Mr Heaton. Paragraph 3.3 on page 31 of the Report states: "The 2011 original business case highlighted the approach as the highest risk procurement strategy, mainly because of the challenge of procuring, integrating and managing multiple lots"—yet the Department "enthusiastically" embraced the highest-risk strategy. Could you explain that? If you knew that in the business case, why did you go ahead with a complicated system like this?

Richard Heaton: I am trying to put myself into the thought processes of the Ministry at the time. I think there were two basic alternatives. One was to re-procure the whole thing, which would have been safe because we knew there were players in the market who could have taken it on, as there were players currently providing tags end to end. That was, as it were, the safe option. The riskier option was the one you have drawn attention to from the Report. The benefits that were thought to outweigh the risks were bringing other players into the market and disaggregating and breaking the monopoly of the two big suppliers. That is why the Ministry would have adopted the tower model—because it thought it would obtain benefits from having different players coming into the market and ending the duopoly, which we were being criticised for.

Q45   **Chris Evans:** Do you know the identities of the officials who were less convinced of the tower model? Do we know who the dissenting voices were? Do you know what they said?

Richard Heaton: I know everyone had different views at the time, but I do not know who was on which side of that argument. I was in the Cabinet Office at the time and, as I recall, even in the Cabinet Office there were senior people who fervently believed in the tower model, and there were senior people who fervently did not believe in the tower model. There was a divergence of view even within Government.

Q46   **Chris Evans:** So nobody was fully decided, and the Department just pushed ahead with the tower model.

Richard Heaton: We pushed ahead with this model, cognisant of the risks, thinking that we would successfully disaggregate the market and thinking—again, this is a mistake we made—that as part of a re-procurement, we could somehow get suppliers to invent on the hoof tags that could do everything. That was an overly ambitious reading of what the market was capable of delivering.

Q47   **Chris Evans:** I am looking at paragraph 3.2, which mentions "reduced dependence on any single supplier." Could you tell the Committee what the role of Capita was? Did you fear that in their role of integrator, they had a conflict of interest, as they were also a provider? I believe they still provide 80% of the contract anyway.

Richard Heaton: You are right; Capita, under that model, would have been responsible for the integrator as well as lot 1, and we relied on Capita putting in place Chinese walls between the two Capita functions. It was not unknown in Government for an integrator also to have one of the tower contracts, but we came to the view more recently that the integrator function should no longer be with Capita, which is why we have brought it in-house. But you are right: there was a potential conflict that was mitigated by having Chinese walls and different Capita teams representing different parts of the contract.

Q48   **Chris Evans:** Did you not cut Capita's legs off as integrator anyway by giving them absolutely no power over the other contract holders? Is that fair to say?

Richard Heaton: I am not sure I follow the question.

Q49   **Chair:** That must have been the case, because they had a relationship with the other suppliers—first Buddi and then Steatite—but no contractual relationship. The only contractual relationship they had was with the Ministry of Justice, not the other firms they were supposed to be integrating with. Surely that was a flawed model, was it not?

Richard Heaton: And that is one of the common criticisms made of the tower model with the integrator function. It is not a prime contractor, so they don't have contractual leverage; you're quite right. We contracted with the integrator function on what we thought was good advice, and it turned out not to be the correct way to contract.

Q50   **Chris Evans:** But do you think it was a good idea to allow Capita to develop the new system while holding the contract for the old system? Do you think that was based on good business sense?

Richard Heaton: They took over the running of the old system when it came under stress following the over-billing scenario. They then successfully bid for the integrator function—

Adrian Scott: And lot 1.

Richard Heaton: And lot 1, and they independently won both lots. Or were they let as a single contract?

Adrian Scott: They were let as a single contract.

Q51   **Chris Evans:** Do you think it was a good idea, though? Are we talking about another potential conflict of interest, or are we talking about the famous Chinese walls?

Richard Heaton: I think we would have taken the view that it was a conflict of interest that could be managed by Chinese walls within the Capita team. Is that right?

Adrian Scott: That is my understanding of the situation. Clearly, one of the reasons we took over the integration function is exactly the point you are making. We remain in the position where we have Capita delivering the lot 1 services and the existing service. Clearly, we have much greater oversight and transparency relating to the work Capita is doing, now that we hold the integration function. That is helpful, given the point you are making.

Chris Evans: Yes, but I want to move on to your taking the integrator role in-house.

Q52   **Chair:** Just before you do, Mr Evans, let us pause for a second. You gave Capita the contract back, but at the same time you asked for a forensic audit to be done on their and Serco's performance—and yet you gave them the contract back. That is surely extraordinary. That forensic audit led to a referral to the Serious Fraud Office, which, I understand, is still investigating. Is that not an extraordinary state of affairs?

Richard Heaton: I don't think that is quite accurate.

Michael Spurr: I think that is a slight misunderstanding, Chair. The two providers were G4S and Serco. G4S, Serco, Capita and GEO bid for the lot 1 contract. In that process, we uncovered the overcharging, which came from breaking up the system. Through our due diligence in the procurement process, we uncovered the overcharging. We commissioned a forensic audit, initially into G4S and then into G4S and Serco, about the overcharging. As a result of that, neither G4S nor Serco was permitted to continue in the competition, and the lot 1 contract was awarded to Capita. It was not that Capita was given the contract having had a forensic audit; Capita was given the contract because we excluded G4S and Serco, having done the forensic audit.

Q53 **Chair:** Can we knock that whole area on the head? It was referred to the Serious Fraud Office. Is it still subject to a Serious Fraud Office investigation?

Michael Spurr: It is, Chair, yes.

Q54 **Chair:** But there have been some settlements, haven't there? Could you just tell us about the settlements? It wouldn't be proper to ask you about the ongoing judicial process, but there have been some settlements. Can you please tell us about them?

Michael Spurr: We uncovered that we could not match the data we were receiving as part of the procurement process with what we understood we were paying for, and we implemented the forensic audit. Out of that it became clear that there was overcharging, which we pressed the providers on. They eventually recognised and accepted that that had been the case, and we settled and gained £179 million back for overcharging—we got that back for the taxpayer. We referred the matter to the Serious Fraud Office because of the issues that that uncovered. That is still an ongoing SFO investigation, so I can't comment any more on that, but £179 million was returned from G4S and Serco to the taxpayer as a result of that process in the middle of this procurement.

Q55 **Chair:** That is a great deal of money, is it not, Mr Spurr? Does it not indicate just how lax and how ill-thought-out the original procurement project was?

Richard Heaton: No. If I may say so, it is the reverse. The over-billing took place under the original duopoly contract. The disaggregation—I am not a big fan of that term, as you will detect—at the very least allowed us for the first time to see with some degree of transparency what was being charged for under the duopoly. Actually, it was a critique of the original model, not of the tower model.

Q56 **Chair:** Yes, but am I not correct that that whole matter might not have come to light if it had not been for a whistleblower?

Michael Spurr: No, absolutely not. It was not a whistleblower who uncovered this. There was whistleblowing, which the NAO received. They actually use the forensic audit to follow that through, but it was not the

whistleblowing that uncovered this. It was our due diligence. As a result of that, I commissioned the forensic audit directly with the then director of procurement. It was not the whistleblower who uncovered it.

Sir Amyas Morse: I just want to say, not to be unkind about it, that it is to be expected that when you have contracts and are paying for them, you know what you are paying for, isn't it?

Michael Spurr: I agree.

Sir Amyas Morse: So it is not a great achievement that you found out what you were paying for at last as a result of doing this. You should have known that in the first place. Isn't that true?

Richard Heaton: It showed up less than perfect contract management; you are absolutely right.

Sir Amyas Morse: I'm sorry, but I couldn't not point that out.

Michael Spurr: I think you are right. The reality is that since these contracts were originally let back in 1999, the level of contractual oversight of them had been far too light. That is one of the massive learnings that came out of this whole process. Of course we should have known what we were paying for and not have had to uncover it through a procurement process—there is no question about that—but it is important that we did uncover it in this way, as otherwise it would never have been known.

Q57 **Chris Evans:** Mr Heaton, you said in response to my colleague Ms Mahmood that you are confident that this will work and will be a successful programme. You have taken the integrator role in-house. What gives you the confidence that you can do a better job than Capita and provide the skills that it cannot?

Richard Heaton: This is one of Adrian's teams, so he may be able to comment. It is partly because we will be in a direct contractual relationship with everyone else, so it is absolutely clear between us and the other lot suppliers who does what. That is not the case if you have an integrator sitting in the way. It is partly because we have hired civil servants, contractors and indeed people from Capita to work alongside us. I have seen them working: they are mixed functional teams with very high degrees of skill and trust. That is my impression of the degree of confidence that I get from Adrian's team, but do you want to say more?

Adrian Scott: I think that is the important thing. One of the things is that the current programme has learned the lessons of the past. We have a lot of evidence of how the integration function did not work previously, so we have taken all that on board. We have built a team in the way that Richard described, and that creates the right blend of skills and allows us to bring in skills when we do not have them in-house. We are working very closely with MOJ digital colleagues and Cabinet Office colleagues to make sure that we have identified all the skills that we require for that integration function. For us, it is about not just delivery during the programme, but an

ongoing service that we will provide through our business-as-usual function as we move forward. We have spent quite a lot of time focused on the skills that we will require for that function.

Q58 **Chair:** Can I really push you on this issue of skills, Mr Scott? Given that in the whole of the civil service only 3% of its number are procurers, how confident are you that your Department has a sufficient number of expert procurers to really get this contract right and, as Mr Evans said, to be sure that we get this integration right? Without the integration project working properly, the whole system will not work.

Adrian Scott: I completely agree. One of the things that we have done throughout the programme is bring in people when we need them. We brought in the Cabinet Office skilled commercial colleagues when we needed them. The Permanent Secretary has agreed that we have an embedded commercial function within the current programme, so we have dedicated resource that will not move on to other activities. We have also brought contractors into the integration space and the technology space where we felt we needed them most appropriately. I am extremely confident that we have worked to understand all the things and skills that we will require, and they are ring-fenced within my team.

Chair: I sincerely hope you are right.

Q59 **Gareth Snell:** I have heard lots of words this afternoon. I am not entirely convinced that they all make sense when put into the sentences that you have constructed, but one just stuck out for me. You were asked about how you are confident that this will be successful going forward, and you said that one of the reasons is that you will now have that contractual relationship with the various providers. The Report Mr Evans highlighted said that the model that you originally came up with, or endeavour to use, was the riskiest, and you are now saying that you are able to make a potential success of this programme because you have that direct contractual relationship. It does not seem like the lesson should have taken as long as it has taken and the money that has been spent to learn—to understand that, from the beginning, what you needed was somebody who had a contractual relationship with all the partners involved. However you wish to explain the processes that have happened, the fundamental basics of the lessons that you planned on learning are things that, on the face of it, should have been self-evident from the start and did not need to be learned through a very time-consuming and very costly process.

Michael Spurr: I suppose that is a fair point. When the original concept was determined, it was in a context where the Department had not ever run electronic monitoring services—in fact, nobody in the centre had. They had been outsourced from their very inception. A huge learning issue was that we did not have sufficient knowledge of the business and how that was operating. That came out through the procurement process. The intention was to break up the duopoly that was there and have a greater flexibility of provision. The view was that we would appoint a field service operator and integrator who would have knowledge of the business and be

able to do that integration role with much greater transparency of costs from our perspective and greater flexibility. In the end, we appointed Capita because the other providers were excluded, so we had a provider that had not had experience of managing electronic monitoring, but at the time that was the thinking that led to the decision to go forward in that way.

Q60 **Gareth Snell:** Fine. I will never be critical of somebody for saying they did not have knowledge to start with because everyone has that problem. What gives rise to a number of questions—we will probably not get answers to them today—is, given your statement that there was a fundamental lack of knowledge in the Department of how to run those sorts of systems, why did you opt for the procurement system that has been described as the most risky? If you did not know how the system was meant to look, why would you opt for something that the Report clearly says is the most risky way of taking something forward? Were you not simply adding an element of ignorance about how the contract would run to your own admitted lack of understanding of how the systems should have been running anyway? You are compounding a lack of information by having a structure—

Chair: Should we let Mr Spurr answer?

Michael Spurr: I would put the contrary argument. It was precisely because it was an outsourced service and we did not have all that business knowledge of how the service was running that we wanted to be able to have greater transparency and greater flexibility. The aim was to do that in a different model with an integrator partner from the private sector that had generally run these services since their inception, and that we would gain knowledge and greater transparency from that. That was the rationale. It is perfectly legitimate now to say, and indeed accepted, that that did not work out in practice as we had intended. At the time, there was a rationale for saying, "Let's try to provide a more transparent, flexible service".

The reason the procurement was classed as more risky was that we were breaking up the market. The alternative would have been to re-procure with a vertical provision with the two main providers, or with other providers owning the whole system. The reason for going for the higher-risk procurement was to try to address some of the deficiencies set out in paragraph 3.2 of the NAO Report. I accept that did not work as we had anticipated, but that was the rationale. We absolutely accept the outcome of the NAO Report that that has not worked, but it was set out there in paragraph 3.2.

Q61 **Chris Evans:** What is your view on using SMEs in future contracts, based on your experiences with Buddi and Steatite?

Richard Heaton: As a Department, we value contractual relationships with SMEs, directly and indirectly. Of our contractual spend, which is several billion pounds, I think 34% goes to SMEs. We take the SME involvement in the market very seriously. Among the lessons we have

learned from the history of this project to date, there have been lessons learned from our engagement with the two SMEs on lot 3. Our specification was probably too complicated and we probably did not make our requirements clear enough on data sharing and so on. It was probably more difficult than it had to be for SMEs to enter the market. To put it another way, we should have been franker about the complexity and difficulty of building at scale to an evidential requirement for a small SME. It was never going to be an easy proposition for anyone other than a big player to create tagging systems at this scale, and we could have been clearer.

Adrian Scott: If I may just add a couple of minor points, I think one of the really important lessons that we have learned through working with SMEs is about our governance processes—making sure that they are streamlined and that we do not put undue demands on our suppliers. We are working really hard under the current programme around a collaboration agreement, so that we collectively understand the challenge, rather than as under the previous model, which was very much driven through contract relationships and conversations, rather than collaboration and making sure that delivery happened. We have taken a lot of the lessons that Richard highlighted and started to work really hard with suppliers to make sure that we do not make them again.

Q62 **Chris Evans:** If you look at the experience of Buddi, in paragraph 3.5 of the Report, it seems that when they had the contract, they pointed the Ministry to a number of things they were not happy about, yet the Ministry did not seem interested in helping them out in any way, and eventually the contract came to an end. Judging by what I have read there, would you say as an objective viewer—I am not expecting you to agree with me—that you set up Buddi to fail? The contract was overly complicated. Nothing was set out on both sides and both had differing views on what could be achieved.

Richard Heaton: It is a matter of regret that we could not conclude the contractual arrangement with Buddi. We had conflicting views based on, I think, conflicting advice about the evidential requirements for the data coming from the tagging system and whether Buddi's data in its raw form needed to be made available to other parts of the tagging system. We had clear legal advice that that was necessary to prove evidentially that someone was where the tag said they were, and Buddi found that difficult for intellectual property reasons. It is a matter of regret that that disagreement meant that a contract could not be concluded.

Q63 **Chair:** But, Mr Heaton, wasn't that a fundamental flaw in the contracts? You were asking Buddi to give some of their own hard-earned, valuable intellectual property to a company with which they had no contractual agreement, and they were going to get nothing for that intellectual property.

Richard Heaton: It is absolutely clear in the current contracts that our providers must provide the data in the form that Buddi found difficult. As I say, that data flow requirement could perhaps have been clearer between

the parties, but it is absolutely clear to us now that we need the data to be shared across all parts of the tagging system for evidential reasons.

Q64   **Chair:** It may be clear now, but at the time it certainly wasn't clear to Buddi; they were being asked to hand over this valuable intellectual property for no compensation to a contractor they had no relationship with.

Michael Spurr: It was in the original specification that Buddi bid against, and it was there from the outset for all providers that that was one of the requirements. That was because our aim was to have a mapping and monitoring service that had full access to the range of data that was available from the tag provider, so that they could not only determine the location, but be clear and compute how the location had been determined from the raw data. That was so we could deal with any potential challenge to that in court.

That was set out. It proved a much bigger issue for Buddi and, indeed, another provider than we had anticipated, but it was set out in the specification and is part of the current arrangements under the contract going forward for precisely that reason.

Q65   **Chair:** But that is the point, isn't it, Mr Spurr, in answer to Mr Evans' question about whether these two SMEs—Steatite and Buddi—were set up to fail? You were wanting a specification that simply wasn't achievable with the technology available at the time.

Michael Spurr: It was achievable, and indeed it is happening under the new system. It is achievable—

Q66   **Chair:** Yes, several years later, with technology having moved on.

Michael Spurr: No, the dispute with Buddi was about whether it was the right thing, from their perspective, to share that data in that way. I don't think it was a dispute about whether it could be shared—it could be. The issue was whether, in the end, they wanted to commit to doing that.

We had different views. Their view was that we did not need to have that data shared in that way; our view was that it should be shared in that way. We have retained that position. It was set out in the original contract like that, and we have retained that position going forward. That was the issue of dispute with Buddi, which unfortunately we were not able to resolve.

Q67   **Gillian Keegan:** Do you really think you are set up to be able to deal with SMEs?

Richard Heaton: As I say, 34% of our contractual spend is through SMEs.

Q68   **Gillian Keegan:** For what type of thing? For this type of complex IT equipment and services?

Richard Heaton: We have got plenty of SMEs providing digital services to us. We have got a very creative digital team in the Ministry of Justice that

finds ways of contracting with SMEs. Where I think SMEs would need to be careful is taking on a national contract to produce something at scale to a very tight specification. They need, like any contractor—

Q69   **Gillian Keegan:** So perhaps I should have used the word "national", because from what I have heard you describe, you have a very complex specification—900 new requirements—you impose unreasonable terms on SMEs and then you say, "It was all very clear. They should have been able to do it", but you don't test whether they are capable or not. Sometimes suppliers will tell you that they can do things that they cannot, and it is management's responsibility to figure out whether that is right or not. Then, at the end of the day, you say, "Well, we could take them to court." That is not a process that is suitable for SMEs.

Richard Heaton: Again, I hope you did not misunderstand my tone. When I started the piece on SMEs, I said that this is one of the areas we have learned from—so we did over-specify and the 900 were too many—

Q70   **Gillian Keegan:** You did everything wrong. You didn't just over-specify; you imposed unreasonable terms for an SME.

Richard Heaton: I am meeting you halfway. I think 900 was too many requirements; I think we have now got that down to 100 in the contract that was let to the lot 3 providers. It is absolutely on my list of lessons learned—these big contracts need to be made more friendly for SMEs. The 900 thing or the requirement to come to meetings in London all the time—all that stuff that we expect big providers to do is really difficult for SMEs, so it is absolutely on the list of things that we need to do better at. The SME performance, from our end, was not good enough. I am acknowledging that.

Q71   **Gillian Keegan:** So you have got this massive document of lessons learned, I would imagine. How are those lessons being not only implemented in your own organisation but shared in others?

Richard Heaton: The reason we haven't got a formal "lessons learned" as such is that we have been learning lessons with the programme in flight—being determined that as soon as we get one we make sure that the programme is set up to succeed. This is part of a process by which we will definitively—

Gillian Keegan: So this is a future lessons learned exercise.

Adrian Scott: We have done some lessons learned to date—

Richard Heaton: Lessons are literally being learned as we go. That is why the project is now more successful than it was two years ago. We now adopt the simplified version of the procurement regulations which are more suitable to SMEs—I think we were one of the first Departments to do that in government—we are very proud of our record that the percentage is higher than the Government ambition of 25% and I repeat the digital thing.

Q72   **Chris Evans:** We are in agreement that it all went wrong with Buddi—

they made assumptions, you made assumptions and they walked away from the contract. Did that cost the Department any money?

Michael Spurr: They were the preferred bidder. We didn't sign a contract with Buddi. We were going through preferred bidder engagement and were unable to reconcile the differences so as to proceed to contract.

Q73 **Chris Evans:** No money was paid out, okay. As I understand it, according to the Report, you moved on to Steatite. Why did you choose to go with Steatite—was that simply because they were the only runners left—even though they had been below the benchmark in the bidding process?

Richard Heaton: They were the remaining bidder—

Q74 **Chris Evans:** But they were below the benchmark originally, weren't they?

Michael Spurr: Yes, they were.

Q75 **Chris Evans:** So why did you pick them? Why didn't you just reopen the bidding process?

Michael Spurr: In retrospect, it would have been much better to have reopened it. At the time, as comes out in the Report, there had already been delays and there was a view about moving the project forward. We made the mistake of going with a provider which had a good track record of delivering a whole range of areas but had not done this before. We worked with them on the basis of their proposal of being able to develop the tag. We took the view that that was the right thing to do at the time. I accept that it would have been better to have gone and re-procured at that point.

Q76 **Chris Evans:** So they had no experience and were below the benchmark, but you signed with them.

Michael Spurr: They had experience of a range of different technology delivery; they had not got experience of developing this particular tag. I don't think it is fair to say that of Steatite—they were themselves an SME and a good provider of a range of different technological services, but they hadn't delivered this particular tag.

Q77 **Chris Evans:** I go back to you setting them up to fail. You demanded that they meet with the Department 40 times a week—is that right?

Michael Spurr: That is reported in the Report so we are accepting that but I was not aware that—

Chris Evans: Forty meetings per week for an SME.

Adrian Scott: That is what Steatite said to the National Audit Office.

Q78 **Chris Evans:** And you dispute that—40 meetings a week for an SME?

Adrian Scott: Not during my tenure were they expected to attend 40 meetings a week, but that I guess was not during the period they are referring to.

Q79   **Chair:** Mr Scott, you do accept that this is an agreed Report between the Department and the NAO.

Adrian Scott: Yes.

Chair: And therefore the 40 a week is presumably a statistic that you or your five predecessors have agreed.

Oliver Lodge: I should add that the figure of 40 meetings a week was confirmed by more than just Steatite—other providers did so, too.

Q80   **Chair:** Just to put this in context, this was a very small SME. It started with seven employees. Your whole ethos in the Department should have told you that that type of SME was not able to deliver the regime you were expecting of them.

Richard Heaton: I acknowledge, as I said earlier, that we were not sensitive or intelligent enough. Requiring an SME to turn up to 40 meetings a week is excessive. As the current SRO said, we wouldn't do it now. I am not in a position to judge whether we should have broken with Steatite earlier, realising it wasn't going to succeed. It was a tough call, when we took it, to walk away from this. We wanted to conclude the deal with Steatite, but we found ourselves unable to do so. Whether we could have done it within less than 19 months is an interesting question.

Q81   **Chris Evans:** How much did it cost when you walked away from the contract?

Richard Heaton: The fruitless costs are recorded in our accounts as a fruitless payment of £4.4 million plus VAT.

Q82   **Chair:** Can I just clarify that figure? Is that in addition to the figure of £5 million you told us about at the beginning of this session?

Richard Heaton: That was the figure I was referring to.

Q83   **Chris Evans:** So you spent £4.4 million and then walked away, and you basically messed around two SMEs. If you were running an SME, would you want to work with your Department in the future, knowing that this is in front of you?

Richard Heaton: If we improved from that performance, yes.

Q84   **Chris Evans:** You basically had a breakdown in trust with Buddi, and then you totally messed around Steatite and ended up paying out £4.4 million. Would you trust a supplier or somebody you were working with in the future if that were the case?

Richard Heaton: There are SMEs that do business with us, and it is a successful partnership. I agree that this was not a happy one.

Q85   **Chris Evans:** So you would not say that this is a bad advertisement for SMEs working with the Government. I certainly would.

Richard Heaton: This is an experience we have learned from.

Q86 **Chris Evans:** What can you say to SMEs in the future to assure them that this is not going to happen to them? I am sure Buddi and Steatite would not be happy about being mentioned in the Public Accounts Committee, having thought they were dealing with a professional Government Department.

Richard Heaton: I would allow one of our SME partners to speak for the relationship. I wouldn't purport to do it myself. I would ask them to be in touch with one of the many SMEs that do contract with us, either directly or through a contractor. We do have relationships with SMEs, and we take them seriously. That is why I am proud of the figure of 34%.

Q87 **Chair:** Mr Heaton, can I press you on this? One of the reasons why Steatite found it difficult to work with your Department was delayed payments. That goes against all Government policies about paying small businesses promptly. Can we have an assurance from you that today your Department is paying small businesses promptly?

Richard Heaton: I hope I can give you an unequivocal assurance. If there is anything that detracts from that assurance—if there is anything that we are aware of that is anything other than what you have asked me to assure you of—I will immediately write to you. I think the answer is yes. I do not want to mislead the Committee if there is something I am not aware of.

Q88 **Chair:** But you agree that it is unacceptable.

Richard Heaton: I agree that prompt payment is very important for the Government, particularly with SMEs.

Q89 **Chris Evans:** I have one last question, and it is quite simple. Do you honestly think the simplistic idea of providing tags to prisoners was made overly complicated by this process, and that it could have been delivered a lot faster had you not adopted tower models and given SMEs the run-around and actually just got down to producing the things?

Richard Heaton: If we had simply re-procured, it would have happened very quickly, this Committee would never have heard of it, it would have been part of our spend, there would have been no mishaps, and meanwhile we could have piloted the new generation of satellite tagging. That would have been a different history, and it would have been a much happier one for us to sit here and tell you about today. We didn't do it for the reasons we have explained. We wanted to break up the market and bring in innovation, but we tried to bring in innovation at the same time as re-procuring, and in retrospect that was probably the wrong thing to do.

Q90 **Chris Evans:** Mr Heaton, this seems quite simple. You could have just strapped iPhones to people's ankles and used their GPS, rather than go through this process. What have you learned, and what guarantee can you give that this isn't going to happen again?

Richard Heaton: We have learned the lessons that we have been sitting here discussing. One of them, which we haven't quite mentioned, is that we should be more ready to reach for off-the-shelf solutions, trust the

market and technology and be less—again, this word "ambitious"—ambitious in thinking that we can be the market leader in technology, and that we need a supplier to invent something at the same time as supplying it to us. That seems to be a bit rash in a world where the market is moving very quickly. We should probably rely on the markets and off-the-shelf products more, rather than trying to make our own all the time. That is another lesson.

Q91 **Chris Evans:** It is not in the Report, but I have got to ask. I know you were hoping for a brave new world and a groundbreaking tagging system. Did you hope that if you developed this, it could be sold around the world?

Richard Heaton: I do not know if that was part of the thought process at the Ministry at the time; I was not in the Ministry. Not as far as I know; I have never heard that being said.

Q92 **Chris Evans:** It is just something I have surmised from the Report. I was wondering if that was—

Richard Heaton: I am not aware that that was a current of thought, but I cannot—

Michael Spurr: At the time, there was undoubtedly a view that if we were able to develop where we had expertise, there would be an opportunity to spread it internationally, yes. It was not done specifically for that—it was done for the reasons that were set out in this Report—but at the time, there was a view that if we were expert in a particular area, we should be able to market that.

To some degree, in terms of what we were looking to develop, it is not just as simple as putting an iPhone on an ankle. The evidential test was actually a key issue. The market moves on. Part of what we were trying to do was develop flexibility. The reality is that what we can get today is massively different from what we were looking at in 2012, which was the whole point of trying to develop it, but we got it wrong in so many ways, which we have gone through today.

Q93 **Chair:** But Mr Spurr, isn't it really the case that you were looking for an all-singing, all-dancing, world-beating tagging solution, which made you oblivious to a proper, common-sense procurement process?

Michael Spurr: I think that is harsh. There were tags on the market that combined radio frequency and satellite tracking. It was not unreasonable, we felt at the time, to say that that tag should be available to be used in our market. Actually, the aim was to get a single tag that would enable us to maximise the options available to sentencers at a reduced cost to the taxpayer. That is what we were trying to do. For a whole range of reasons that we have discussed today, it didn't quite work like that, but the programme is still worth while. A net present benefit comes out of it, and we are still in a position where tagging is working effectively across England and Wales at the moment, and the programme will deliver benefits. There is no doubt about that; it is a positive programme

delivering benefits. We would have liked to do it better, but it is not a programme that will not deliver value for the taxpayer when it is completed.

Q94 **Shabana Mahmood:** To return to my earlier line of questioning before looking at wider lessons, throughout the whole unhappy history of this project, did you consider asking for an accounting officer direction at any point?

Richard Heaton: Not during my tenure as accounting officer, I haven't had to.

Q95 **Shabana Mahmood:** Previously?

Michael Spurr: There was no request for an accounting officer direction at any point.

Q96 **Shabana Mahmood:** Was it considered?

Michael Spurr: I didn't consider it; I don't know whether previous permanent secretaries considered it.

Q97 **Shabana Mahmood:** Would you be able to find out?

Richard Heaton: I can write to you on that.

Q98 **Shabana Mahmood:** Thank you. Were the counter-terrorism policy and the desire of the then Government to get rid of the control orders regime, to bring in terrorism prevention and investigation measures and to drop the power of relocation as an option a particular driver to come up with this all-singing, all-dancing new technological solution?

Michael Spurr: No.

Q99 **Shabana Mahmood:** Thank you; that is helpful. Moving on to wider lessons, Mr Heaton, you have asserted very confidently that this revised, amended programme will deliver and that lessons have been learned. What assurances can you give us that they really have been learned and that delivery will take place, given that in your early answers—I think almost your first answer—to questions in this session was an acceptance that the timescale has already slipped to 2019?

Richard Heaton: It is that sort of transparency that gives me confidence that it is a good programme, if you see what I mean. First of all, without embarrassing my colleague on the right, Adrian has been the SRO for 18 months. Continuity of SROs is really important, and I expect Adrian to see this through.

Secondly, we have governance—it may sound like a dull word, but it is really important—in the Department that we did not have in 2012. We have a contract governance committee that looks at this contract programme regularly, and we have an investment committee that looks at the investment case for the programme, the timelines, the investment and so on, and the net present benefit. We have got two governance mechanisms that were not in place before. Adrian has access to my

executive team, me and Ministers, and he knows that he runs a priority programme for us.

We have not talked about another lesson we have learned, which is that attention drifts on to other priority areas. That is absolutely not happening now. This is one of my priority programmes, and I am determined to support Adrian in helping it succeed.

Q100 **Shabana Mahmood:** Before I ask Mr Scott about his responsibilities, on that exact point, I think you have 16 other transformation programmes in addition to this one. Is that correct?

Richard Heaton: 16 including—

Shabana Mahmood: Including this one or in addition?

Richard Heaton: There are 16 programmes in the Government's major projects portfolio.

Shabana Mahmood: Okay. Is this one of them?

Richard Heaton: Yes.

Q101 **Shabana Mahmood:** What priority does it have in your Department, among the other projects?

Richard Heaton: In terms of technological delivery in a monthly contractual environment, it is pretty much up there.

Q102 **Shabana Mahmood:** "Pretty much up there" could be one, five or six. I have no sense of what "pretty much up there" means.

Richard Heaton: I don't rank them like that. It is not the biggest—the biggest is building prisons or courts reform—but in terms of its specific deliverables, delivering through contract in a difficult contractual environment, it is in my top three.

Q103 **Shabana Mahmood:** Top three? No. 1 for you, I assume, Mr Scott.

Adrian Scott: Absolutely—No. 1 for me, yes.

Q104 **Shabana Mahmood:** On that exact point, you haven't finished the job on this No. 1 project, but you have already taken on some new responsibilities, as I understand it from the NAO Report. How can we be confident that you will be able to give enough attention to this one and see it through, given our concerns that it has already been delayed and has been a bit of a dog's dinner up to this point?

Adrian Scott: I have accepted some responsibilities within the prison reform portfolio. That is about 50% of my time, so half of my time remains absolutely focused on electronic monitoring. That is above the figure you would normally see for an SRO—it is usually about 20%. This programme continues to get more time from me than you would normally expect to see for exactly the reason you have articulated—the history. I remain absolutely committed to delivering this. It is one of the things I feel very passionately about. I originally came in to deliver a review of the

programme, the approach and the proposed methodology, which we have now taken on. I am therefore personally committed to seeing this through to delivery.

Q105 **Shabana Mahmood:** Are you confident that half your time is going to be enough to do it?

Adrian Scott: Yes.

Q106 **Shabana Mahmood:** You have established a project delivery function and a central resource pool. Can you update us on the progress you have made on that?

Richard Heaton: The two functions that we have spent a lot of time strengthening are our commercial function and the project function. We now have more graduates from the Major Projects Leadership Academy than any other Department, apart from Defence. We have got about 100 who have either been on that or the project leaders programme run by Cranfield. We have got 300 people in a recognisably project delivery function. We have got a head of the project function, who is sitting behind me, and a strong team. Delivering projects is part of what we need to do well in this Department.

Q107 **Shabana Mahmood:** How much more have you got to do before you are where you need to be?

Richard Heaton: If you were to ask my colleague behind me, he would say that we are probably halfway or two thirds of the way there. We have identified everyone who is in the function. We now need to work out whether they have got all the skills we need between them. We are filling in quite a lot of gaps with interims and contractors. I would like that number to come down, although the balance is important. We are getting there, and I think we have got one of the strongest project functions in a large Government Department.

Q108 **Shabana Mahmood:** What would you say to the suggestion that you are basically just poaching staff from all other Government Departments and creating gaps elsewhere?

Richard Heaton: There is quite strong central leadership of the project community in Government, as there is in the other functions run from the Cabinet Office. There is an internal market, but we act corporately. I am a civil service leader as well as a departmental perm sec. Simply robbing Department A to feed Department B is not a sensible way to run Whitehall.

Q109 **Chair:** Mr Heaton, there has been a degree of consensus around the room this afternoon about the fact that the previous procurement was disastrous and led to a delay in the delivery of the whole programme. You assured the Committee this afternoon that the project will be delivered by February or March 2019. Could we have an undertaking from you that if there is any delay to that timetable, you will let us and the NAO know what the causes are and what the latest delivery estimates are?

Richard Heaton: Yes. If I may say so, I very deliberately did not give precise assurances, because I do not want to slip into the mistakes that were made before and promise things that are undeliverable. Our current estimate is early 2019, and I will certainly write to you if that slips in any way.

Chair: I thank all three of you for attending the Committee this afternoon, and particularly for your candour in admitting past mistakes. We have all got PhDs in hindsight. The trick is to learn from those mistakes and get it right in the future. Thank you very much indeed.