

# The Use of Consultants by the Criminal Justice System

March 2010

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*



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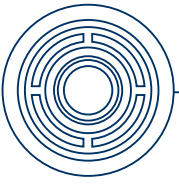
# **The Use of Consultants by the Criminal Justice System**

March 2010

Presented to the Houses of Parliament by the Secretary  
of State for Northern Ireland under Section 49 (2) of the  
Justice (Northern Ireland) Act 2002.

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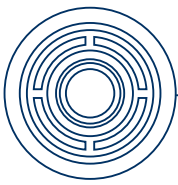






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## List of abbreviations

<b>CIPFA</b>	Chartered Institute of Public Finance and Accountancy
<b>CJ</b>	Criminal Justice
<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>CJS</b>	Criminal Justice System
<b>CoPE</b>	Centre of Procurement Expertise
<b>CPD</b>	Central Procurement Directorate
<b>CSO</b>	Chief Service Officer
<b>DCA</b>	Department of Constitutional Affairs
<b>DFP</b>	Department of Finance and Personnel
<b>EU</b>	European Union
<b>FSNI</b>	Forensic Science Northern Ireland
<b>GB</b>	Great Britain
<b>IS</b>	Information Systems
<b>IT</b>	Information Technology
<b>LSC</b>	Legal Services Commission
<b>MCA</b>	Management Consultancy Association
<b>NAO</b>	National Audit Office
<b>NI</b>	Northern Ireland
<b>NIA</b>	Northern Ireland Assembly
<b>NIAO</b>	Northern Ireland Audit Office
<b>NICtS</b>	Northern Ireland Court Service
<b>NIO</b>	Northern Ireland Office
<b>NIPB</b>	Northern Ireland Policing Board
<b>NIPS</b>	Northern Ireland Prison Service
<b>OGC</b>	Office of Government Commerce
<b>OJEU</b>	Official Journal of the European Union
<b>PAC</b>	Public Accounts Committee of the Northern Ireland Assembly
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PSNI</b>	Police Service of Northern Ireland
<b>PU</b>	Procurement Unit
<b>SLA</b>	Service Level Agreement
<b>STA</b>	Single Tender Action
<b>UK</b>	United Kingdom
<b>YJA</b>	Youth Justice Agency



## Chief Inspector's Foreword

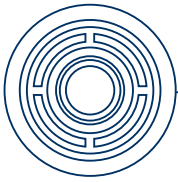
The use of external consultants is an important source of expertise and experience for the public sector. Effective use of consultants can provide innovative thinking, professional insight and technical skills beyond what is available in many public sector organisations. This can assist with the delivery of complex assignments to time and to established budgets, providing value for the organisations who engage them and ultimately, the end user of the services provided. The best consultancy firms invest heavily in training and the development of their staff. It is right and appropriate that the public sector utilise this experience to the benefit of service delivery.

The past decade has been a period of significant change within the criminal justice system, most particularly in terms of the modernisation of the police and the establishment of the Public Prosecution Service for Northern Ireland (PPS). All organisations have experienced the challenge of change to some degree. This has entailed the use of consultants including the greater use of external support under job/staff substitution arrangements. This is only to be expected. It is important that staff substitution continues to be monitored along side spending on consultancy.

Consultants are expensive resources and there is a responsibility on agencies to maximise the contribution made by consultancy support and the benefits it provides. There is a need to ensure that their use is planned for and appropriately procured, to ensure value for money. There should be a targeted use of consultancy support based on business need. Their assignments should be managed appropriately and the quality of what they deliver - as with any supplier of goods and services to the public sector - should be rigorously examined. This inspection examined the use of consultants across the criminal justice sector in Northern Ireland.

Our inspection found that in general, the use of consultants followed practices similar to those which existed elsewhere in the public sector. Indeed, many of our recommendations repeat the findings of similar reviews undertaken by the Audit offices in Scotland, England and Wales and Northern Ireland. While we did not find any major areas of concern around the overall process of procurement, there were some issues around the letting of individual contracts and the need to sharpen practice as a consequence.

We did find the need to strengthen the planning and management of consultancy support. In particular, there is a need to widen the pool of suppliers for the justice system as there was evidence of dependence on a relatively small number of key suppliers and barriers to access to new suppliers. We also found the need to strengthen the post-benefit review stage that assesses the value of the support provided. Clarity of information and transparency on the processes followed, would also improve the overall management of consultancy support.



The inspection was led by James Corrigan. I am grateful for the support received from the Northern Ireland Audit Office in this inspection. I would also like to thank all those who provided information during the course of the exercise.

*Michael Maguire*

**Dr Michael Maguire**

Chief Inspector of Criminal Justice in Northern Ireland

March 2010

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## Executive Summary

External consultants are used for an increasing range of professional services in areas such as management, finance, IT and marketing. The nature of the work, whether it is a time-limited project or a longer term staff substitution assignment, has determined whether it is classified as consultancy or staff substitution. The practice however, is that consultants have been used for consultancy and staff substitution with some contracts having elements of both.

Expenditure data provided to Inspectors shows that the criminal justice agencies spent £37.2m. on consultants over a three year period (2005-06 to 2007-08). This represents less than 1% of the total operating budget of the criminal justice system. Spending on consultancy was £25.7m. while staff substitution accounted for £11.5m.

Two noticeable trends are evident – consultancy spending has decreased year-on-year while the use of consultants for staff substitution is showing an increase in expenditure. Using consultants for staff substitution represents just a small proportion of overall spending on staff substitution, as most of this expenditure is used to procure temporary staff from recruitment and outsourcing firms. These firms and their temporary staff are generally not considered to be consultants. These contracts are not included in this inspection.

The traditional focus on consultancy has meant that robust systems are in place for the authorisation, approval and monitoring of all spending. Staff substitution, including the use of external consultants, has received less attention. It is the view of Inspectors that all organisations within the criminal justice system should apply the same approach to staff substitution as is the case for consultancy. The Northern Ireland Office (NIO) is already collecting and analysing expenditure data on consultancy and staff substitution.

The past decade has been a period of significant change within the criminal justice system, most particularly in terms of the modernisation of the police and the establishment of a new Public Prosecution Service (PPS). This has entailed the extensive use of external consultants for short-term projects and longer term assignments.

The Police Service of Northern Ireland (PSNI), as the biggest criminal justice organisation, has been the largest spender on external consultants (£20.9m over three years). Other organisations such as PPS and Forensic Science Northern Ireland (FSNI), have recently reduced their use of consultants as re-organisation and modernisation projects have been completed.

A review of the procurement processes – from identification of need, tendering and management of contracts – finds similar issues to those in the rest of the public sector. The main recommendations for change are therefore aligned with those made by Audit offices in Northern Ireland, Scotland and England and Wales. Inspectors would emphasise that the scoping of assignments and the tendering process should be more explicit about





skills transfer. There is also a need for better and more consistent use of post contract evaluations as a means of evaluating the best use of external consultants and sharing of lessons with other public sector organisations.

A more specific challenge for the criminal justice system is the need to address access and widen the pool of suppliers for the justice system, as the evidence points towards a dependency on a relatively small number of firms. A total of 60% of all spending over the three years (2005-06 to 2007-08) went to five firms, with one firm receiving nearly half of all expenditure (£17.8m). Inspectors accept that dominant suppliers can be created when large contracts are competitively awarded to one or more firms. This can also result in a clustering of specific skills and experience. There is however, an onus on the justice system to sustain a competitive marketplace and ensure best value for money, which includes addressing any barriers for new potential suppliers.

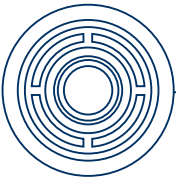
Some specific issues for justice organisations include the need to consider the impact of security vetting on the tendering process and ensure that new suppliers are not disadvantaged. The issue of how 'relevant experience' is defined and how the weighting of tender scores are determined, should be more transparent and recorded in the contract files.

The interface between consultancy/staff substitution and the provision of an internal audit service has been the cause of some attention for a number of years. Weak corporate governance and perceived conflicts of interests between providers of consultancy and 'independent' audit services, have resulted in some high profile failings in other jurisdictions. This in turn has led to a tightening of the guidance made available to all public bodies in Northern Ireland. It is the view of Inspectors that all justice organisations should seek to minimise this risk by ensuring full compliance with the guidance provided by HM Treasury and the Department of Finance and Personnel (DFP).



## Recommendations

- The Finance Director or head of procurement in each criminal justice organisation should be responsible for ensuring that relevant management information is collected and acted upon (*paragraph 1.11*).
- All criminal justice organisations should ensure compliance with the guidance from the Department of Finance and Personnel (DFP) in relation to the appointment of private sector firms for internal audit (*paragraph 2.29*).
- Each organisation should implement the guidance set out in documents such as the Northern Ireland Guide to Expenditure, Appraisal and Evaluation and put in place a system, where they do not already exist, to ensure that projects are supported by an appropriate business case produced in line with HM Treasury standards (*paragraph 3.10*).
- The scoping of assignments and the tendering processes for the use of external consultants should be more explicit about skills transfer (*paragraph 3.12*).
- Criminal justice organisations should continue to reduce the number of contracts awarded by single tender action to external consultants (*paragraph 3.19*).
- The scoping and tendering of projects involving external consultants should ensure equal access and participation including consideration of security vetting arrangements (*paragraph 3.21*).
- Tender documentation and evaluation panels should clearly document the reasons for any significant variation in its weightings criteria relative to DFP guidance (*paragraph 3.27*).
- A consistent and transparent approach to the definition and application of ‘relevant experience’ should be implemented for all tenders involving external consultants in the criminal justice system (*paragraph 3.32*).
- The existing approval, authorisation and monitoring arrangements for consultancy should be extended to cover staff substitution across the criminal justice system (*paragraph 3.35*).
- Criminal justice organisations should work with the CPD in DFP to strengthen project management arrangements including dealing with contract variations. Opportunities for best practice should be received and shared with other parts of the criminal justice system and public sector (*paragraph 4.7*).

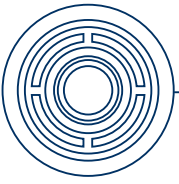


- Criminal justice organisations should follow the guidance of NIO and DFP policy on completing and utilising post-project evaluations (*paragraph 4.12*).
- Each of the main criminal justice agencies should prepare an annual report on its use of external consultants (consultancy and staff substitution) which should be presented to its Audit Committee and Board (*paragraph 4.13*).

Section



# Inspection Report



## CHAPTER 1:

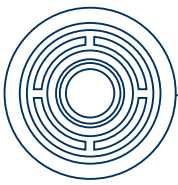
# Introduction



### Defining ‘consultants’ and their use

- 1.1 The term ‘consultant’ derives from the Latin *Consultare*, which means ‘to discuss’ and involves people providing professional and other services to an organisation for a fee. Consultants work as sole employees and, as part of larger consultancy firms, and are generally part of the private sector. Some public bodies, such as units within government departments and the universities also provide specific services for a fee. These public sector consultants are not included in this inspection.
- 1.2 Ex-public sector employees have often transferred into private sector firms as consultants due to their knowledge and experience of particular organisations or in response to specific knowledge and skills gaps. This has taken two forms – those individuals who work as sole employees and those who become part of a larger professional services firm. A Northern Ireland Office (NIO) policy document<sup>1</sup> on the use of external consultants promotes the former through the use of retired civil servants (including ex-police officers) as an alternative resource option to private consulting firms, in that they can offer better value for money and may be particularly appropriate if a quick study is needed and there are concerns over security clearance.
- 1.3 A noticeable trend in recent years has been the growth of recruitment firms, which specialise in the placement of staff, often ex-employees, into particular functions within firms. The Police Service of Northern Ireland (PSNI) in particular has used this approach to deliver its modernisation agenda and address skill gaps caused in particular, by its early retirement scheme under the Patten reforms. Other organisations, such as the Northern Ireland Court Service (NICtS), and previously Forensic Science Northern Ireland (FSNI), have procured senior directors via the staff substitution option. The practice shows that these types of staff substitution assignments are often delivered by consultants.
- 1.4 The range of services delivered by consultants has expanded in response to the expanding needs of organisations. A NIO circular to criminal justice organisations included thirty types of consultancy services grouped into eight categories – management, financial, assurance, research, marketing, general

<sup>1</sup> Policy on the Use of External Consultants, NIO, 2006. Revised 2007.



consultancy, IT consultancy and staff substitution. It is these categories and the expenditure data submitted by criminal justice organisations to the NIO for use in its annual statement Departmental Audit Committee, which has been used by CJI in this inspection.

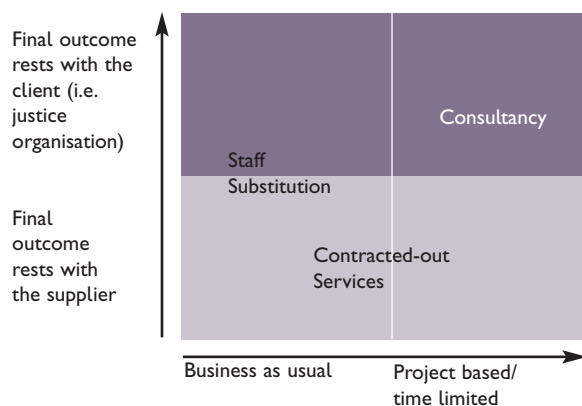
1.5 The monitoring of all external non-pay expenditure is done at organisational level through standard reporting and audit processes with accountability resting with a senior manager (Accounting Officer). The NIO, as the budget holder for large parts of the criminal justice system, have additional monitoring arrangements for specific aspects of external non-pay expenditure which can be the focus of public attention (e.g. Parliamentary questions, Freedom of Information requests, efficiency savings etc.). This includes expenditure on consultancy and staff substitution.

1.6 A difficulty for the NIO and any organisation that monitors external non-pay expenditure is the classification of this spending, most particularly relating to the use of external consultants. Guidance available from HM Treasury, the Office of Government Commerce (OGC) and the Department of Finance and Personnel (DFP) in Northern Ireland seeks to categorise the spending on the basis of resource options i.e. whether the assignment is project based or as a substitute for day-to-day business as usual activities.

The focus is on the type of service required rather than the provider.

1.7 The OGC and the Professional Services Forum<sup>2</sup> agreed in 2006 that consultancy assignments are ‘time limited or ad hoc, and do not form part of business as usual operations.’ Managed services were described as ‘the delivery of ongoing requirements, generally where a public servant would perform the role, if available.’<sup>3</sup> This could include staff substitution and contracted out services (see Figure 1).

**Figure 1: How consultants are used**



1.8 The core principle behind this definition – to separate consultancy from managed services – has been slightly modified and updated in recent National Audit Office (NAO) reports as well as NIO and DFP guidance within Northern Ireland. The NAO stated that the final outcome of consultancy assignments rested with the client (i.e. the firm purchasing the service) whilst the final outcome for managed services generally rested with the external

<sup>2</sup> A grouping of private sector organisations providing consulting services.

<sup>3</sup> *Delivering value from consultancy – a guide for public sector clients and suppliers*, OGC, MCA and IMC, 2006.



supplier of the service. NIO policy<sup>4</sup> added that a consultant is 'expected to transfer skills and/or expertise to an organisation which either does not possess these skills in house, or which requires an independent assessment to be made.' More recent DFP guidance states explicitly that staff substitution and contracted out services should be treated as a managed service and not as external consultancy.<sup>5</sup> The two policy documents have been circulated widely and were accompanied by a letter from the Permanent Secretary in the case of the NIO and the Treasury Officer of Accounts in the case of DFP.

1.9 A finding of this inspection is that the application of these definitions has caused confusion among some finance and procurement managers, which in turn has complicated the submission of expenditure returns to the NIO. This corresponds to the view of the Northern Ireland Audit Office (NIAO) in its earlier report on the use of consultants which found 'confusion across departments on the exact description of consultancy which has resulted in anomalies in the returns'.<sup>6</sup>

1.10 The problem for organisations is apparent when a distinction is required to be made between consultancy, staff substitution and contracted out services assignments. This has been the case for the NIO return (did not require contracted out services) and a separate review of the PSNI commissioned by the Northern Ireland Policing Board<sup>7</sup>

(did not require staff substitution). Inspectors saw assignments which commenced as a time limited consultancy project but then became part of the normal day-to-day business of an organisation, often with the same consultants. This required a re-classification from consultancy to staff substitution. One of the largest contracts in the PSNI, which was delivered by one firm, was actually split between consultancy and staff substitution elements. A number of staff substitution assignments in the Northern Ireland Prison Service (NIPS) were re-classified from staff substitution to a contracted out service and were therefore, not submitted in the return to the NIO. These decisions can significantly impact on the type of data and analysis of spending on external consultants.

1.11 Inspectors share the concerns of Audit Scotland<sup>8</sup>, which stated that a narrow definition, which excludes staff substitution and/or contracted out services can limit the value of any analysis as it excludes significant areas of external non-pay expenditure. It may also have implications for reliable and accessible data in responding to Parliamentary questions. This can be linked to the comments of the Northern Ireland Assembly (NIA) Public Accounts Committee (PAC) which stated that 'departments must ensure that they give comprehensive and consistent information on consultancy expenditure in response to requests from

4 Policy on the Use of External Consultants, NIO, 2006. Revised 2007.

5 Engagement of External Consultants, DFP, 2009.

6 Use of Consultants, NIAO, June 2004. This report did not include the NIO and criminal justice agencies.

7 Review of Consultancy and Contracted Out Services within the PSNI, NIPB, 2008

8 Central government's use of consultancy services: how government works, Audit Scotland, January 2009.





*elected representatives. Information put into the public domain must be complete and should clearly delineate all categories of consultancy costs’.*<sup>9</sup>

**We recommend the Finance Director or head of procurement in each criminal justice organisation should be responsible for ensuring that relevant management information is collected and acted upon.**

- 1.12 This inspection is confined to the use of consultants for consultancy and staff substitution as this was the basis of the data supplied to the NIO by the criminal justice organisations. Staff substitution assignments, where responsibility for the final outcome rests with the supplier, are not included. While some elements of contracted out services may include the use of consultants, the lack of reliable financial data within organisations meant that it could not be included in this inspection. The deep shaded boxes of Figure 1 are therefore the focus of this inspection.

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<sup>9</sup> *Report on Use of Consultants, Together with the Minutes of Proceedings of the Committee relating to the Report and the Minutes of Evidence, Sixth Report, PAC Northern Ireland Assembly, January 2008.*

## CHAPTER 2:

# Analysis of expenditure



2.1 Most of the financial data used in this report was provided by the NIO. This is based on an annual expenditure return made by the criminal justice agencies<sup>10</sup> and covers three financial years<sup>11</sup>. It covers spending on consultancy and staff substitution with the actual breakdown determined by each agency on the basis of a guidance document provided by the NIO. The Northern Ireland Court Service (NICtS) and the Legal Services Commission (LSC) are not part of the NIO family and sent their returns separately to Criminal Justice Inspection (CJI).

### Overview of consultancy and managed services expenditure

2.2 An analysis of all the expenditure data provided to Inspectors shows that consultancy and staff substitution accounted for £69.2m<sup>12</sup> for the three financial years 2005-2008 (Table 1). This has increased from £21.4m in 2005-06 to £24.8m in 2007-08. A

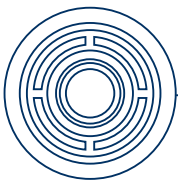
breakdown of spending by criminal justice organisation shows that almost £53m of the total spending (77%) relates to the PSNI.

2.3 Looking at the most recent year (2007-08), spending on consultancy and staff substitution was just over £21m in the PSNI, which represents 86% of overall spending. This was an increase of £3.7m on the previous year. Five of the remaining seven criminal justice organisations showed a decrease in expenditure for 2007-08 compared with the previous financial year, with the most notable decrease evident in the case of the NIPS where 2007-08 expenditure was just 5% of the total in the previous year. Significant reductions were evident in organisations which were completing major programmes of expansion and/or modernisation. By excluding the PSNI, overall spending on consultancy and staff substitution actually decreased from £5.6m in 2006-07 to £3.6m in 2007-08.

10 Data was requested from the NIO criminal justice directorates, Non Departmental Public Bodies and sponsored bodies.

11 2005-06; 2006-07 and 2007-08.

12 This includes expenditure of £32m by PSNI on its civilian recruitment contract.



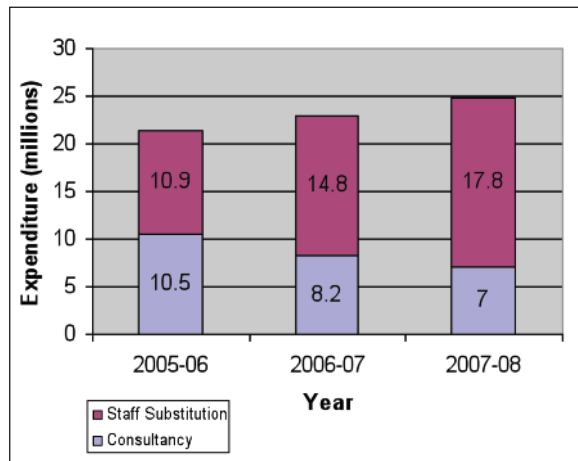
**Table 1: Consultancy and staff substitution expenditure by organisation  
2005-08 (£'s)**

	2005-06	2006-07	2007-08	2005-08
<b>PSNI</b>	14,345,009	17,443,390	21,122,500	52,910,899
<b>NIO</b>	1,963,118	1,252,021	1,495,996	4,711,134
<b>NIPS</b>	1,637,932	1,973,975	85,823	3,697,730
<b>NICtS</b>	719,344	479,730	409,370	1,600,421
<b>FSNI</b>	804,477	675,260	392,488	1,872,225
<b>PPS</b>	682,955	388,299	292,091	1,363,345
<b>YJA</b>	255,000	337,572	166,848	759,420
<b>PBNI</b>	310,554	204,685	169,599	684,838
<b>OTHERS</b>	657,985	324,893	626,379	1,609,257
<b>ANNUAL TOTAL (£'s)</b>	<b>21,376,374</b>	<b>23,079,825</b>	<b>24,761,094</b>	<b>OVERALL TOTAL 69,217,293</b>

2.4 A breakdown by type of expenditure shows that consultancy accounted for £25.7m and staff substitution was £43.5m over the three financial years. Two significant trends are evident – consultancy has fallen each year from a high of £10.5m in 2005-06 to £7m in 2007-08 (Figure 2). During the same period staff substitution has increased from £10.9m to £17.8m. This increase in staff substitution expenditure is attributed mainly to the PSNI which saw an increase from £9.1m to £16.7m in the three-year period.

2.5 The overall figure is dominated by one civilian recruitment contract with the PSNI which was originally classified by the PSNI as staff substitution in its return to the NIO. This has expenditure of around £32m over the three years examined as part of this inspection. While some of the temporary staff are working on short-term project driven assignments and could be considered consultants in that respect, the majority of the staff and expenditure would not accord with the typical use of external consultants. The PSNI have requested that this contract

**Figure 2: CJS expenditure on consultancy and staff substitution 2005-08**



should be treated separately for the purposes of this inspection. The contract is therefore excluded from further expenditure analysis in this report.

2.6 Excluding this civilian recruitment contract from the expenditure means that:

- Total spending on external consultants for consultancy and staff substitution by the criminal justice system was £37.2m over the three years (£11.8m in 2007-08). This represents less than 1% of the operating budget of the criminal justice system; and
- Expenditure to external consultants on consultancy was £25.7m (£7m in 2007-08) while staff substitution amounted to £11.5m over the three years (£4.8m in 2007-08).

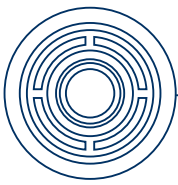
## Suppliers

2.7 The NIO in its report to the Departmental Audit Committee on consultancy and staff substitution reported that around 150 consulting firms/individuals carried out work for the criminal justice agencies in 2007-08.

2.8 Based on the data used in this report, five firms accounted for 60% of all expenditure on external consultants (consultancy and staff substitution) in the period 2005-06 to 2007-08. One firm in particular was the dominant supplier with nearly half of all criminal justice expenditure over the three years including 56% in the last year of this inspection. It must be noted however that 44% of all expenditure over the three years relates to an Information Systems (IS) Framework Contract in the PSNI, which was predominantly awarded to one firm.

2.9 An analysis of spending on consultancy shows that the top five firms accounted for 64% of overall expenditure (see Appendix 2). One firm received 49% of all spending on consultancy over the three years, which included 54% in 2007-08.

2.10 An analysis of spending on staff substitution (minus the large civilian recruitment contract with the PSNI) shows that the top five suppliers accounted for 71% of spending over the three years. One firm received 46% of all spending over the three years including 61% for 2007-08 (see Appendix 2).



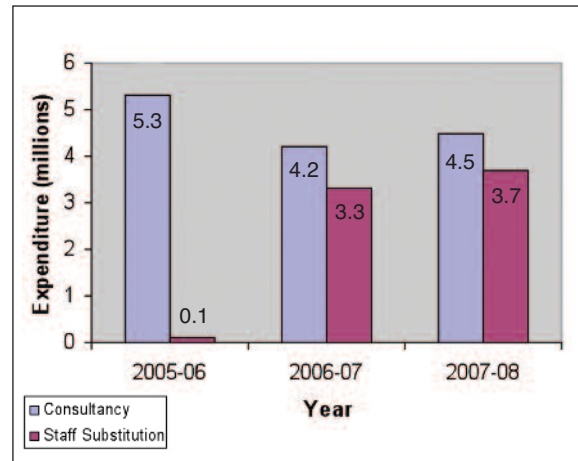
## Organisational analysis

### Police Service of Northern Ireland (PSNI)

2.11 The PSNI is the largest criminal justice organisation in terms of financial resources with a budget of £851m (excluding pension elements) in 2007-08. It had total spending on external consultants (consultancy and staff substitution) of £21m for the three-year period examined in this inspection (excluding the civilian recruitment contract). That corresponds to 57% of all spending by the criminal justice agencies over the three years including 71% for 2007-08. Spending on consultancy and staff substitution in 2007-08 was £8.1m which represents about 1% of the total PSNI budget. That is a relatively small proportion of overall spending.<sup>13</sup>

2.12 Spending on consultancy was highest in 2005-06 at £5.3m and fell to £4.2m in the following year (Figure 3). The most recent figures for 2007-08 show expenditure of £4.5m. The largest proportion of spending on consultancy for the three-year period of this inspection relates to 'IS Strategy Implementation' which is broken down as £4.7m in 2005-06, £2.9m in 2006-07 and £3.6m in 2007-08. This represents 81% of the total spend of £13.9m on consultancy over the three years.


Figure 3: PSNI expenditure on consultancy and staff substitution



2.13 The IS Strategy for the period 2004-08 was designed to position PSNI at the 'forefront of law enforcement technology' and is comprised of 37 interdependent IS/IT projects. It was decided that since the work was additional to business as usual activities, that external support and skills would be required over the four-year period. It was envisaged that the IS strategy would not provide exclusivity to the successful supplier, though in practice, one firm has secured much of the work packages and related expenditure.

2.14 The IS Business and Technical Support contract was awarded in 2004, for an initial two years with further options of three, one-year extensions – which have been exercised. The contract expired in May 2009. At the end of 2007-08, the contract value for the main supplier was £24.7m which was split into consultancy (£13.5m) and staff substitution (£11.2m). The PSNI position is that this contract has delivered value in terms of the project deliverables (e.g. skills transfer) and has represented value

<sup>13</sup> The National Audit Office in its report 'central government's use of consultants' in 2006 stated that spending on consultants represented about 11% of the operating costs of a central government department.



for money including recent efficiency savings. It was pointed out to Inspectors that spending was within the limits of the approved business case and that daily fee rates were reduced as part of the annual contract review and compare favourably to other suppliers. Inspectors have reviewed these contract rates relative to the OGC and CPD Framework Contracts and are satisfied that they are competitive within the Northern Ireland marketplace.

2.15 A separate review of live contracts commissioned by the Northern Ireland Policing Board (NIPB)<sup>14</sup>, commented on the risk in terms of exposure to ‘*restricted procurement options*’ as identified in relation to the contract for IS Business and Technical Support Services which allowed PSNI to draw on specific services for individual ICS projects without further competition – just one firm of consultants was included in this framework contract. The PSNI in response has stated that ‘*any new call-off contracts will result in multiple suppliers being awarded contracts, subject to secondary competitions for discrete items of work.*’

2.16 Staff substitution is dominated by the same IS Business and Technical Support contract which had expenditure to one firm of £11.2m at the end of 2007-08 including £5.1m for the latter two years of this inspection (see Appendix 2). Another firm has received £690,000

during the same period under this project. The staff substitution element of this contract refers to a number of long-term contract positions which were classified as staff substitution.

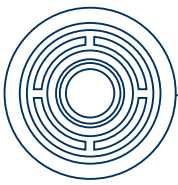
The fact that this one contract was divided into consultancy and staff substitution elements does demonstrate the need to examine consultancy and staff substitution together in any review of the use of external consultants.

2.17 Inspectors have decided not to include the expenditure figures for the civilian recruitment contract (other than as an overview at the beginning of this chapter). A review of the contract documentation did however raise some concerns about the significant increase in expenditure compared to what was originally envisaged and documented in the original tender exercise. The first contract for civilian recruitment services<sup>15</sup> was awarded in 2002 and was estimated at around £1m per annum. A variation to the original contract was made in 2004 to include the assignment of agency workers to the PSNI, which resulted in a major escalation in costs. The contract, and its successor in 2007, had expenditure of £32m over the three-year period of this inspection. This contract is split into expenditure directly to the firm and that which goes to agency staff as wages via the recruitment organisation. The PSNI have told Inspectors that the majority of the costs relate to agency staff wages.

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<sup>14</sup> Review of Consultancy and Contracted Out Services within the PSNI, by Goldblatt McGuigan, NIPB, December 2008.

<sup>15</sup> The Patten report on policing recommended that the recruitment of civilian and police officers should be undertaken by human resource professionals.



2.18 At the time of the last tendering exercise (2007), the tender documentation stated that the PSNI had in excess of 700 agency workers assigned across Northern Ireland. A subsequent internal PSNI value for money review of this contract stated that the supplier has assigned approximately 500 temporary staff weekly to the PSNI. These requirements were a direct response to the changing and pressing needs of the Police Service as it responded to the resource gaps resulting from the Patten severance programme and the increasing civilianisation of roles and functions. Many of the substitution staff were ex-police officers who provided expertise in a broad range of roles from human resources, IT and crime support.

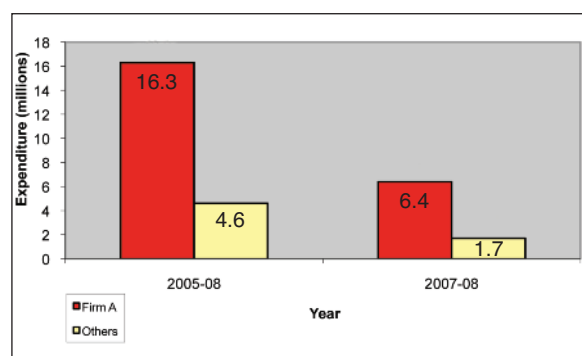
2.19 One of the largest and growing areas of external non-pay expenditure in the PSNI relates to contracted out services. Inspectors did not examine these contracts as part of this inspection as the data was not collected by the NIO for its annual report, and there was a strong held view that this type of expenditure should not be considered as delivered by external consultants. Inspectors would agree that contracts such as those relating to catering, cleaning and security guarding would not be relevant in this regard. A case could be made however to include contracts, or part of, which relate to work such as IT advice and audit which would be considered to be a professional service delivered by external consultants.

2.20 Inspectors have instead relied upon the research and analysis of the NIPB

commissioned review of live consultancy and contracted out services contracts. That report found that 59% of total consultancy/contracted out services expenditure was awarded to two suppliers, but concluded that this did not constitute reliance on key suppliers. It did not categorise these contracts as either consultancy or contracted out services for this purpose.

2.21 This inspection is different in two key respects. It is focused on actual expenditure rather than contract value and was targeted at the use of external consultants (consultancy and staff substitution) rather than the providers of contracted out services. It shows that there is one dominant supplier of external consultants to the PSNI based on actual spending. That firm received £16.3m from a total spend of £20.9m over the three year period of this inspection – the figure was £6.4m from a total spend of £8.1m in 2007-08 (Figure 4). This represents 78% of PSNI spending on consultancy and staff substitution in 2007-08. The next most successful firm received just 4% of overall spending.

**Figure 4: PSNI expenditure to suppliers**



2.22 It must however be stressed that a significant proportion of this spending relates to a single contract (£11.2m over three years with £3.6m in 2007-08). There was however scope to award elements of this contract to a number of different suppliers, which was not an outcome of the tendering process. This contract was addressed in some detail by the NIPB commissioned report into consultancy and contracted out services.

2.23 The dominant supplier of consultancy and staff substitution is also the internal auditor for the PSNI. That contract, re-tendered in 2007 for a maximum of five years is valued at about £1.7m (£340,000 per annum) and was awarded to the incumbent firm. The firm also leads a consortium on the delivery of recruitment services for police trainees/part-time police officers which is valued at about £8.75m. Both of these contracts are additional to those included in this inspection as they were classified as contracted out services by the PSNI and therefore not submitted to the NIO for its annual report to the Departmental Audit Committee.

2.24 Inspectors would stress that that there is no criticism relating to the tendering of the internal audit contract and no concerns concerning the quality of the audit work. The PSNI have pointed out that the Chartered Institute of Public Finance and Accountancy (CIPFA) Police Internal Audit benchmarking exercise shows that the cost of internal audit

per £1 million of gross revenue expenditure is £306 for the PSNI compared with an average for all Great Britain (GB) forces of £395. The issue for CJI and the NIAO<sup>16</sup> is that the risk of a potential perceived conflict of interest relates to the nature and volume of non-audit work undertaken by that firm. The NIAO in their 2008-09 'Report to those charged with Governance Audit Results' raised the issue and classified a relating recommendation as a priority 2 rating: 'weaknesses which are not fundamental but should be addressed as soon as possible'.

2.25 Guidance provided by the Department of Finance and Personnel<sup>17</sup> (DFP) in 2007 is that 'the likelihood of a potential conflict of interest is greater...where a firm is engaged to carry out the complete internal audit function, but is also employed on consultancy or other types of non-internal audit work, within the same public sector body'. The guidance does not preclude this happening, but states that the Accounting Officer must be able to justify this arrangement. The guidance goes on to state that 'Accounting Officers should take into consideration the extent, nature and value of any non internal audit work undertaken by a firm, the relative level of risk to the organisation in such areas and the impact such work has on the organisation's aims, objectives and overall control framework. You will want to pay particular attention to non internal work involving significant fees, sensitive subjects or major operational or financial control issues'.

<sup>16</sup> The NIAO audits PSNI on behalf of the NAO. NIAO has expressed concern on a number of occasions.

<sup>17</sup> DAO (DFP) 10/07 Appointment of Private Sector Firms to Internal Audit within the Public Sector.





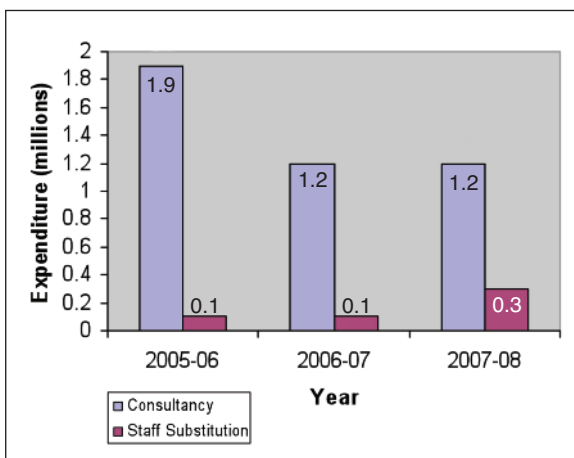
- 2.26 New UK Government Internal Audit Standards<sup>18</sup> for Central Government Departments, Agencies and Executive Non Departmental Public Bodies state that *'conflicts of interest may arise where an audit contractor provides services other than internal audit to the organisation. Steps must be taken to avoid or manage transparently and openly such conflicts of interest so that there is no real or perceived threat or impairment to independence in performing the audit role.'*
- 2.27 The approach of senior management in the PSNI, including its Audit and Risk Committee, has been to *'manage any potential conflict of interest issue which may arise'* and to have *'open and transparent reporting through to the Audit and Risk Committee'*. A protocol concerning managing any potential perceived conflicts of internal audit has been developed which states that the PSNI is required to consider any potential conflict of interest on any new consultancy assignments, including putting in place an *'agreed solution'* where required. Senior management have responded to CJI that it is *'recognised that a pragmatic approach needed to be taken on this issue due to the limited number of contractors within the Northern Ireland marketplace capable of delivering a quality Internal Audit service to a large and complex organisation'*. Inspectors would point out however that any risk of a perceived conflict of interest would be negligible for most large consulting and audit firms that operate within Northern Ireland.
- 2.28 Inspectors consider that appropriate managing arrangements, to measure any potential perceived conflict of interest, is now the priority as the contract has been awarded. Any issues in regard to that potential perceived conflict of interest will, of course, need to be considered as part of the annual review process for that contract<sup>19</sup>. In response to the issues raised by CJI, PSNI senior management consider that they currently comply with both HM Treasury and DFP guidance.
- 2.29 There is however, a need for all justice organisations to consider such potential perceived conflicts of interests in the use of external consultants and, to ensure that these issues are fully considered in advance of any tendering processes. It is recommended that **all criminal justice organisations should ensure compliance with the guidance from the Department of Finance and Personnel (DFP) in relation to the appointment of private sector firms for internal audit.**
- ### Northern Ireland Office (NIO)
- 2.30 The expenditure data for the NIO relates to spending within its five core directorates. NIO spending on consultancy and staff substitution amounted to £4.8m over the three years of this inspection, which represents 13% of total criminal justice spending on external consultants during the three-year

<sup>18</sup> Government Internal Audit Standards, HM Treasury, April 2009.

<sup>19</sup> CJI is aware that the issue of a potential conflict of interest was considered at the initial expressions of interest stage and that the scoring system for the evaluation of tenders incorporated an element of negative scoring in that respect.

period. This has steadily reduced over the three years from £2m in 2005-06 to £1.5m in 2007-08. A significant reduction is evident in relation to consultancy, whilst staff substitution has shown an increase in the last year (Figure 5).

**Figure 5: NIO expenditure on consultancy and staff substitution**



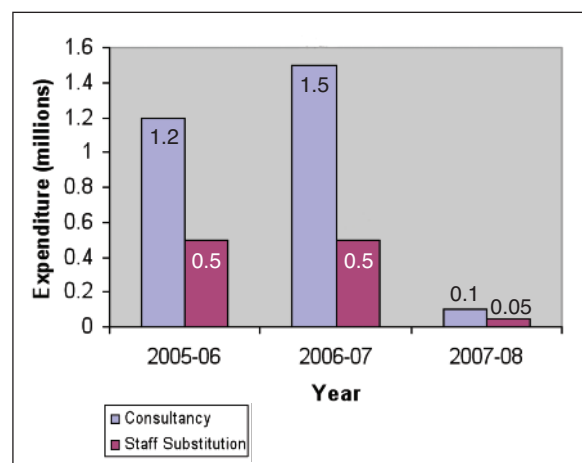
2.31 There were 11 NIO contracts with expenditure of over £100,000 in the three-year period of this inspection. The largest was a leadership development programme for senior managers in the NIO which had a contract value of £0.5m with expenditure of £300,000 over the three-year period. A significant amount of overall spending within the Department was related to the Causeway IT programme<sup>20</sup> (e.g. programme management, electronic workflow, assurance review) which is additional to the work undertaken by individual agencies. The electronic workflow project had a number of contracts (pilot application,

development, hosting solution) which included expenditure of £390,000 (two contracts) to one firm. The largest staff substitution project was the provision of a project manager for two devolution projects which amounted to £100,000 in 2007-08. No one firm received more than 12% of total spending within the NIO over the three years.

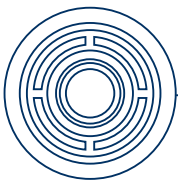
### Northern Ireland Prison Service (NIPS)

2.32 The NIPS spending on external consultants for consultancy and staff substitution amounted to £3.8m over the three years of this inspection, which represents 10% of total criminal justice spending on external consultants during the three-year period. This has shown a dramatic reduction in the final year to just £86,000 (Figure 6).

**Figure 6: NIPS expenditure on consultancy and staff substitution**



<sup>20</sup> Causeway is an IT system which enables Northern Ireland's criminal justice agencies to share information via a common data store. When information is first input to the system, it can then be shared with other agencies via their own electronic case management systems. The programme is being rolled out in stages known as Data Sharing Mechanism (DSM) and has a projected spend of £43m, which excludes separate expenditure in each of the agencies.



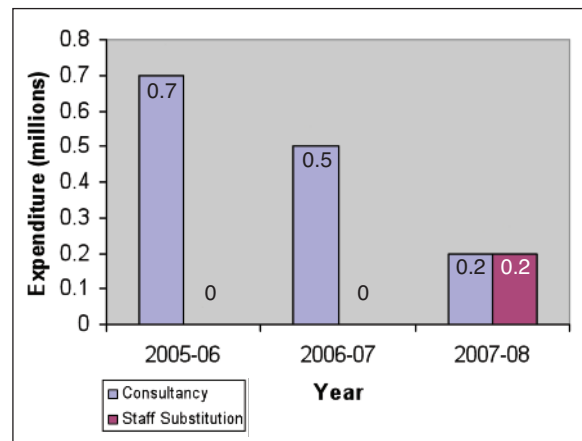
2.33 The largest consultancy project in terms of expenditure has been a new Prison Records Information System which had a contract value of £3.9m of which expenditure of £1.69m was shown in the first two years of this inspection. Due to the size of the contract, the firm that supplied this service accounted for almost half of all NIPS spending on consultancy and staff substitution in the three-year period. The same firm had a group of smaller consultancy projects with NIPS in 2006-07. Another large consultancy assignment related to an economic appraisal/advice on estates/planning issues which showed expenditure to one firm of £217,000 in the first two years. A large number of staff substitution assignments related to the provision of nursing care, medical advice, counselling services and cover for vacant posts. None of these types of contracts were shown as staff substitution in the 2007-08 return to the NIO which may in part, explain the dramatic decrease in expenditure in the latter year. It may also raise the broader issue of differing interpretations of staff substitution and contracted out services and its potential impact on any comparative analysis within and between organisations.

### The Northern Ireland Court Service (NICtS)

2.34 The NICtS spending on external consultants for consultancy and staff substitution amounted to £1.6m over the three years of this inspection which represents 5% of total criminal justice spending during the three

years. This has reduced from over £700,000 in 2005-06 to around £400,000 in 2007-08 (Figure 7).

**Figure 7: NICtS expenditure on consultancy and staff substitution**

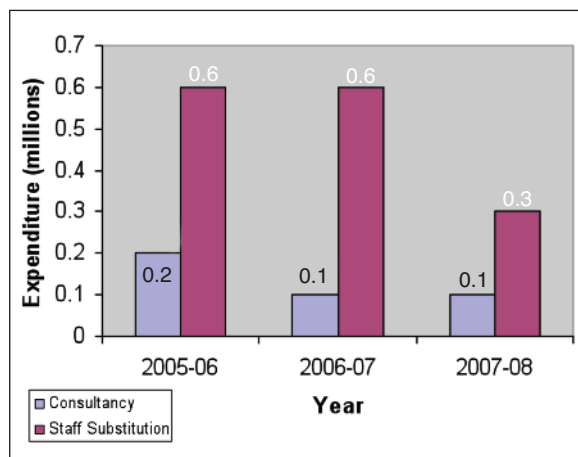


2.35 The presence of staff substitution spending in 2007-08 relates to the procurement of the services of a temporary Finance Director from a large consulting firm. This post had expenditure of £220,000 in 2007-08 and it has continued into the next financial year. It is estimated that a civil servant would be paid around £85,000 annually for this type of role, which does raise concerns regarding value for money and the use of daily fee rates for long-term staff substitution assignments. Other recent projects included the development of its case management system (ICOS), business/security consultancy and a landscape review of the Legal Services Commission. One firm, which provided business consultancy services in the three years of this inspection, received just less than £0.5m which represents 32% of all spending by NICtS. The next highest supplier received 18% of all spending over the three years.

## Forensic Science Northern Ireland (FSNI)

2.36 FSNI has used consultancy and staff substitution to address a mixture of management and skills/experience deficits within the Agency. Overall spending on external consultants (consultancy and staff substitution) over the three-year period of the inspection was £1.87m. This has reduced from just over £800,000 in 2005-06 to less than £400,000 in 2007-08. Unlike most other organisations, it is staff substitution which has constituted the largest proportion of expenditure over the three years (Figure 8).

**Figure 8: FSNI expenditure on consultancy and staff substitution**



2.37 Most of the consultancy assignments were relatively small with the largest expenditure relating to the procurement and development of a new finance system, business case support and management and assistance with the accreditation process.

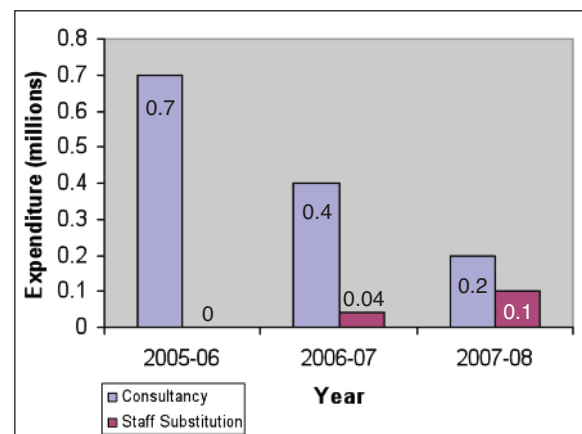
2.38 Staff substitution spending was focused on addressing gaps in relation to management and core business

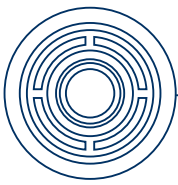
processes and challenges associated with the modernisation programme. There was a period from 2004-06 when most of the senior management, as well as a number of middle managers, were engaged as external consultants through recruitment firms. The budget included £476,751 for three interim Directors' salaries, all of whom had left the Agency by the end of 2006. The transfer of skills and experience to the new permanent Directors was not as successful as intended in the original procurement exercise. The top three suppliers (all suppliers of temporary managers) received 48% of overall spending during the three years.

## The Public Prosecution Service for Northern Ireland (PPS)

2.39 Spending by the PPS on consultancy and staff substitution has dropped significantly over recent years as the organisation completes its set-up and modernisation programmes. Total expenditure over the three years was £1.36m of which £1.22m (90%) related to consultancy (Figure 9).

**Figure 9: PPS expenditure on consultancy and staff substitution**





2.40 The relatively high expenditure of earlier years was related to the setting up and implementation of the organisation. The largest project was focused on the setting up of the new PPS and implementation of the relevant recommendations from the Criminal Justice Review. One firm received £587,000 in relation to this work in the three-year period of this inspection, which amounted to 44% of all spending on external consultants. The second major assignment has been the need for advice and assistance with regard to new accommodation of which a different firm received £351,000 in the three-year period. There were also a group of projects focused on Information Communication Technology. The top three suppliers received 84% of all spending over the three years.

2.41 It should be noted however that a large area of external expenditure - the engagement of external counsel (i.e. fees to independent counsel to prosecute cases in the magistrates' Courts and Crown Court) is considered a contracted out service and is not included in this analysis.<sup>21</sup>

Agency (YJA) at £759,420 and the Probation Board for Northern Ireland (PBNI), which had expenditure of £684,838. The costs of legal fees will be covered in a separate CJI inspection to be conducted during 2009-10.

### Other organisations

2.42 The smaller criminal justice organisations (in terms of operating budgets) spent just over £3m in the three years of this inspection – the figure was £963,000 in 2007-08. The largest expenditure in the three-year period related to the Youth Justice

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<sup>21</sup> This amounted to £11.2m in 2007-08 which is an increase of £400,000 on 2006-07 and £3.7m more than 2005-06. The issue was covered in the recent CJI follow-up inspection of the 2007 Baseline Inspection Report, published in June 2009.

## CHAPTER 3:

# Planning for and buying of consultants



3.1 In the past five years, there have been three major audits into the use of external consultants within UK central government departments and public bodies, which have included recommendations to improve the planning, procurement, management and assessment of the services provided.

They are:

- *Use of consultants*, Northern Ireland Audit Office, 2004;
- *Central government's use of consultants*, National Audit Office, 2006; and
- *Central government's use of consultancy services*, Audit Scotland, 2009.

The NIAO and NAO audits were followed-up by reports from the respective parliamentary committees (Northern Ireland Public Accounts Committee, 2008; House of Commons Committee on Public Accounts, 2007).

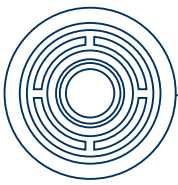
3.2 The NIPB commissioned a separate review of Consultancy and Contracted Out Services within the PSNI in 2008. That review focused on live contracts and was conducted at the same time as this inspection. As the review was examining similar issues as the CJI inspection,

Inspectors agreed to limit the file reviews and interviews in the PSNI to those areas not covered by the NIPB review. The main data and findings of the NIPB review were made available to Inspectors.

### Policy

3.3 The NIO (Financial Services Division) prepared a bespoke policy guidance document for the criminal justice organisations in July 2006, which was updated in 2007. The '*Policy on the Use of External Consultants/Professional Services*' outlines a management system for their use and control and details the monitoring procedures to be followed. The guiding principles of the policy are fairness and transparency, compliance with local, national and international legislation, best value for money, non-discriminatory specifications, environmental consideration, supplier evaluation and development and allowing small and medium size companies the opportunity to compete.

3.4 This policy document was accompanied by a note from the Permanent Secretary of the NIO to all heads of division and Grade As



informing them of the new guidance and its central principles. It did provide some clarification in relation to what should be included/excluded. For example, the use of former civil servants as consultants was recommended from a value for money perspective. It also stated that services provided by independent legal Counsel engaged by the PPS is excluded, as it should be deemed to be part of contracted-out services.

3.5 At the time of the fieldwork for this inspection, NIO policy was more comprehensive and prescriptive than the equivalent policy for the devolved parts of the Northern Ireland public sector. The DFP has since developed and disseminated a revised policy and guidance document which incorporates many aspects of the NIO policy document/guidance. It came into effect on the 1 April 2009.

3.6 This chapter examines the practices of identifying and procuring external consultants within the criminal justice system. Performance is assessed in the context of compliance to existing policy and the application of best practice as advocated by the NAO and NIAO for other parts of the public sector. Areas for development and issues of concern are noted with resulting recommendations for improvement.

### **Identifying the need for external consultants**


3.7 The general principle in the NIO and the DFP policy is that a decision to

engage external consultants should be based on a clear justification of need. The benefits of using external consultants should be balanced against the likely costs through the preparation of a business case. The NIO and DFP policy outline the circumstances in which external consultants should be considered. This includes filling skill gaps, providing new ideas and experience, giving an external and/or independent viewpoint, meeting a legal/financial/appraisal requirement and enhancing staff motivation. It is strongly advised that using internal staff resources, or ex-civil servants (in the case of the NIO) should be seriously considered before a final decision on external consultants is taken.

3.8 The development of a business case is the preferred and standard method for justifying and approving the use of external consultants. It is DFP and NIO guidance that a '*full, but proportionate, business case should be completed for all external consultancy contracts expected to cost greater than £10,000 in total*'.<sup>22</sup> The content of a business case should conform to the guidance provided by DFP and the Office of Government Commerce (OGC) and refer to the *Northern Ireland Guide to Expenditure, Appraisal and Evaluation* (DFP, 2009).

3.9 Inspectors were told that the use of business cases is becoming more prevalent across the criminal justice system, though a significant proportion of these are prepared by external consultants. For example,

<sup>22</sup> NIO policy, 2007 DFP guidance: Use of External Consultants, 2009 including letter to all Finance Directors from Treasury Officer of Accounts.



the NIPS use consultants to prepare business cases on new accommodation projects under a Framework Agreement. There is some evidence that business cases in many organisations were prepared in the absence of any consideration of internal resources – a finding that is in line with evidence from the wider public sector. The NAO found that many UK government departments did not make proper assessment of whether internal resources could be used. Inspectors would wish to see a more rigorous consideration of the use of internal resources before a decision is taken on using external consultants.

- 3.10 The quality of business cases can be variable depending on the expertise available within organisations or provided by external consultants. Guidance from the NIO/DFP is that the detail of business cases should be proportionate to the proposed assignment. Auditors who have examined a sample of business cases across government departments and agencies have found significant scope for improvement. The same issues apply to the Northern Ireland criminal justice agencies. For example, one organisation costed its requirements at £18,000 but awarded a contract for £74,000. A separate internal NIO audit report stated that a lack of specification in a business case resulted in another external consultancy firm being brought in to complete part of the work. A more recent external review of the PSNI called for a consistent approach to the creation of business cases for all aspects of consultancy/contracted out services. While it found that large

scale, complex and expensive contracts were well supported by detailed business cases, others were 'variable at best' and not used in some cases. Inspectors would recommend that this advice to the PSNI should apply across the criminal justice system and recommend that **each organisation should implement the guidance set out in documents such as the Northern Ireland Guide to Expenditure, Appraisal and Evaluation and put in place a system, where they do not already exist, to ensure that projects are supported by an appropriate business case produced in line with HM Treasury standards.**

- 3.11 The approval process for the engagement of external consultants is more rigorous compared to the procurement of other types of services or goods. DFP guidance is that each department should establish the extent to which their Minister wishes to be informed of consultancy expenditure. The threshold for ministerial approval in the NIO is set at £50,000 and above. Departments in the devolved part of Government must seek prior DFP approval for all contracts expected to cost over £75,000 and fresh DFP approval is required for contracts, and extensions, which overrun by 10% or more. The NIO, in its review of spending on consultants and staff substitution, found that several contracts did not seek Ministerial approval, though it was obtained retrospectively in a number of cases.
- 3.12 A critical aspect in the planning for





the use of consultants is how to achieve skills and knowledge transfer from the consultant to internal staff. Policy guidance is that organisations should assess the potential for skills transfer and build this into the scope of the assignment. It is at the scoping stage of an assignment that key deliverables need to be considered and incorporated into terms of reference and project specifications. The evidence from this inspection is that too often, these considerations are only considered at the procurement or project delivery stages. It is recommended that **the scoping of assignments and the tendering processes for the use of external consultants should be more explicit about skills transfer.**

### Purchasing external consultants

3.13 The core principle in procurement, including the purchasing of external consultants, is to achieve value for money. The procurement process is geared towards delivering on this objective. For example, collaborative or bulk purchasing is promoted through central procurement units which can share services, gain efficiencies through bulk buying and develop more consistent approaches to procurement processes. A separate NIO Procurement Unit, which provided a service to the criminal justice system, has recently been integrated into the Northern Ireland Central Procurement Directorate (CPD) as a Centre of Procurement Expertise (CoPE). It

provides a range of services to criminal justice organisations including inserting Prior Information Notices in the European Journal, inviting tenders, providing expertise and best practice in the tendering process including input to selection and award and agreeing contracts between criminal justice organisations and the consultants. It is expected that new opportunities for collaborate purchasing should be realised under this new arrangement.

3.14 The DFP has a target of 95% of a Department's procurement spend to be completed through CPD. The policy document states specifically that *'all consultancy assignments, other than those of a very low value, should be procured through a CoPE, unless otherwise approved directly by the Accounting Officer.'* There was no such target for criminal justice organisations in relation to the NIO Procurement Unit as in-house procurement was more established and constituted a significant proportion of expenditure.<sup>23</sup> Inspectors were told that many contracts were awarded in the absence of advice or input from the Procurement Unit. An NIO internal audit found examples where the Procurement Unit had not been involved. There are a number of factors for this such as organisations having their own procurement departments, more bespoke needs around security and select lists of suppliers which were met by own procurement actions or as part of United Kingdom (UK) procurement arrangements and a lack of capacity

<sup>23</sup> NIO Procurement Unit did not collect data in relation to this.



within the NIO Procurement Unit. The transfer of procurement responsibility to CPD means that this target is now a priority for the criminal justice system. NIO have confirmed to Inspectors that they are working to meet this new target.

3.15 An important service provided by CPD is access to its Framework Agreements<sup>24</sup> for Management Consultancy Services, IS and E-Business, Financial Services and Construction related services<sup>25</sup>. A Framework Agreement, which is pre-tendered in line with European Union (EU) procurement regulations, allows public sector organisations to select providers of a service on a call-off basis. The EU recommendation is that a mini-competition (now referred to as a further competition) may be undertaken within a category if appropriate – a possible exception would be where just one supplier can deliver a particular good or service.

3.16 There are many benefits in using Framework Agreements for purchasing organisations as well as consulting firms. Both the NAO and the NIAO have recommended that departments should make better use of Framework Agreements. There is however some dilution of competition, especially where mini-competitions are not undertaken and where Framework Agreements are not updated to allow access to new suppliers. Inspectors did find some examples of such practices such as one large framework contract having

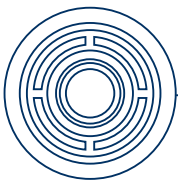
just one supplier over a lengthy period of time. This has been drawn to the attention of the PSNI by CJI as well as a separate independent review commissioned by the NIPB which commented that *'there remains an element of exposure to reliance on a single supplier...an example of a contract which should potentially incorporate more than one source of services'*. It recommended that it should be awarded *'on a multi-supplier framework basis, thus enabling PSNI to utilise more than one single supplier'*.

## Tendering

3.17 The general principle is that all consultancy assignments should be competitively tendered to ensure that value for money is achieved. NIO policy states that *'competition avoids any suggestion of favouritism or the encouragement of monopoly, and helps to promote efficiency and value for money'*. The extent of that competition is determined by a number of factors. Firstly the effort to achieve greater competition should be proportionate to the expected value of a contract – it is for this reason that open competition through public advertisements is required for contracts over £30,000. Contracts below that amount are awarded on the basis of selected supplier quotations. Secondly, competition can be restricted due to the nature of certain contracts or suppliers. For example, *'sensitive'* contracts have been awarded without

24 A Framework Agreement is a general term for agreements with providers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. It is set-up through an open competition and can involve further mini-competitions between the contractors.

25 NIO/CJS had voluntary access to CPD framework agreements prior to becoming a CPD CoPE.



competition or within a restricted process limited to pre-selected firms. Some large PSNI contracts were not required to be published in the Official Journal of the European Union (OJEU) as they were deemed to be excluded from the full provisions of the procurement regulations.<sup>26</sup>

3.18 The use of Single Tender Actions (STA) is strongly discouraged in NIO policy, primarily on competition grounds. It does state that single tender action may be used for 'exceptional' circumstances which include absence of alternative sources of supply, use of retired civil servants, existence of proprietary or specialist equipment, to continue the use of specialist professional services for technical reasons and if the supplier offers an innovative product or service. PSNI Procurement Operating Procedures state that STAs exist for those 'exceptional circumstances where there are substantive and defensible reasons for so doing'. Authorisation procedures for single tender consultancy contracts are set at a higher level compared to other contracts – all contracts up to £50,000 must have the prior approval of a Director in the NIO core, PPS and Chief Service Officer (CS) and Accounting Officer level elsewhere. Cases over £50,000 must obtain the prior approval from the Minister via the Departmental Accounting Officer. The PSNI is stricter in that all contracts for consultancy services must be authorised by the Chief Constable (policy introduced in


November 2006).

3.19 Inspectors are aware that good progress has been made in recent years to assess the level of STAs and develop enhanced approval and monitoring procedures. A number of reviews and internal audit reports have been conducted in the PSNI and recommendations have been made to tighten procedures. At the beginning of 2008, there were 47 STA contracts in the PSNI. The PSNI estimate that there were about 10 STA contracts per year on consulting, many of which are within the crime operations section. An NIO internal audit on FSNI reported that pressure of timescales was one of the limiting factors to support engaging particular consultants or to select STA.<sup>27</sup> It also found that 'there is a tendency to use the same consultancy services because of their experience and familiarity with FSNI systems'. Inspectors support the findings of audit reports in the wider public sector that **criminal justice organisations should continue to reduce the number of contracts awarded by single tender action to external consultants.**

3.20 Access to tendering within criminal justice has traditionally been limited by security considerations including the need for security clearance of suppliers. This led to a number of restricted procurement exercises where the tendering organisations determined which suppliers could tender for the work. This was equally relevant to consultants as

26 Certain services can be excluded from open competition if they are deemed to 'being a schedule 1 Part B Service' of the Public Service Contracts Regulation 1993.

27 Forensic Science Northern Ireland Use of Consultants, NIO Internal Audit Unit, January 2008.

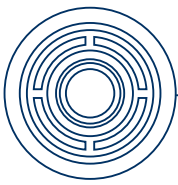


other types of providers. There is however an additional cost or premium in terms of value for money. For many years, a necessary additional cost/premium had to be factored into most work for the criminal justice system and there was a practice to rely on a small group of suppliers. The number of suppliers, (and potential suppliers), has increased significantly in recent years as security considerations were revised and more firms were willing to tender for criminal justice assignments.

- 3.21 There are however some legacy issues which have impacted on competition in the use of external consultants. One large core consultancy contract, which was tendered in 2003, had *'Instructions to Tenderers'* which stated that *'due to time constraints the consultant proposed must be available for immediate work on the project and have security clearance to Counter Terrorist Check level at the time of submission of tenders'*. It is likely that this limited the number of responses as only three firms responded to a large contract which had 33 tender documentation issued. One of the three bids was not evaluated as some of the proposed consultants had not provided full details for security vetting. Inspectors accept that security concerns are a valid consideration for some contracts, but lack of time should not have been a factor in restricting competition and therefore indirectly aiding firms already working within the criminal justice system. One finance manager in a criminal justice agency accepted that time pressures were still

contributing to a lack of competition in this respect, especially as the security clearance process was deemed slow in Northern Ireland. Inspectors believe that greater competition can deliver better value for money and that delays in the security vetting process should not be allowed to impede progress. It is recommended that **the scoping and tendering of projects involving external consultants should ensure equal access and participation including consideration of security vetting arrangements.**

- 3.22 The use of retired civil servants, often ex-employees, is permissible where they can demonstrate greater value for money, already hold security clearance and bring specific skills or expertise that other organisations/people cannot deliver. The DFP guidance for using retired civil servants states that *'using retired civil servants can offer good value for money because of lower overheads and a shorter time for learning'*. Cost, timeliness of appointment and security clearance are quoted as benefits. However, Inspectors did not see any evidence of whether better value for money had been obtained – there is some evidence to show lower daily fee rates (though this may be undermined by recent tax changes classifying ex-employees as office holders for tax purposes). The critical issue for Inspectors is that using ex-civil servants can represent value for money but, they should not be used as a substitute for external consultants when independence and access to a broader range of knowledge/skills are required.



3.23 The PSNI has used a large number of retired ex-employees, particularly under staff substitution arrangements. The need arose out of a major programme of re-structuring, particularly the Patten severance programme, and also decisions to out-source some non-core functions such as the guarding of the police estate. Ex-police officers are helping to deliver a broad range of services in areas such as IT, business improvement and security.<sup>28</sup> The NIPB commissioned report concluded on the basis of a review of documentation and processes that ‘no evidence of favouritism to or reliance on ex-employees in delivering services was established’. The broader issue as to whether, and in what time period, many of these tasks could or should be undertaken by internal staff was not covered. The issue of why and how temporary/agency staff are used within the criminal justice system goes beyond the terms of reference of this inspection, but it is an issue which could be explored in more detail by a separate audit or inspection.

### **Selection and award of contracts**

3.24 A previous CJI inspection on ‘Improving Procurement in the Criminal Justice System,’ published in 2007 dealt with the processes of selection and award of goods and services contracts. This section of the report will therefore focus on those aspects which are more specific to the procurement of external consultants.

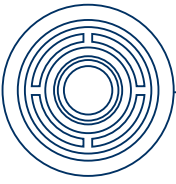
3.25 The purchasing of professional services is generally considered more problematic compared to the procurement of goods. Services are less tangible and there is the difficulty of differentiating between consulting firms and the quality of their services. Most tenders are evaluated on the basis of three categories: methodology, experience and cost. Each of these categories is allocated a weighting depending on the priorities and specifications of the purchaser. This generally corresponds to 40% of the score for experience, 40% for methodology and 20% for cost. The CPD offers a draft evaluation model to enable appropriate weightings to be considered for the specific evaluation criteria necessary to assess tenders received.

3.26 A review of a sample of contracts across the different criminal justice organisations revealed that the application of this guidance on weightings criteria is not transparent from the tender documents and contract files. It is the responsibility of the Evaluation Panel for each tender exercise to determine the evaluation criteria based on the individual requirements of a particular service and in accordance with guidance. The actual weightings can have a major influence on the outcome – for example, a relatively high weighting for ‘experience’ combined with a relatively low weighting for ‘cost’ will not disadvantage a firm with a high tendering price – the opposite will apply when cost is weighted in excess of 20% of the overall score.

<sup>28</sup> The utilisation of ex-PSNI employees formed part of the scope of the NIPB commissioned review of consultancy and contracted-out services in the PSNI.



- 3.27 Inspectors accept the need to set weightings criteria which reflect the needs and priorities of a particular project. The issue relates to a lack of transparency when those weightings show a considerable variation from that recommended by DFP. It is recommended that **tender documentation and evaluation panels should clearly document the reasons for any significant variation in its weightings criteria relative to DFP guidance.** The practice of producing a tender evaluation report, as was evident in one large PSNI contract seen by Inspectors, should be more widely considered in the interests of transparency and sharing of learning experiences.
- 3.28 The practice of piloting a project before its full roll-out and implementation has benefits in terms of drawing lessons from the limited exposure and experience. It also has advantages in terms of the firm that is selected for the pilot in that this specific experience can be beneficial in any competitive tendering exercise. This issue needs to be considered for all projects and programmes. Inspectors did review one contract file for a pilot programme where the selection process for the successful firm was not transparent. It would appear that the firm was selected from a broader Government Framework Contract without a mini competition. Whilst this may have been feasible under the terms of the existing contract, it gave a big advantage to the successful firm in the subsequent tendering exercise. The benefit was enhanced when the selection criteria specified that staff should have prior security clearance and be ready to commence within a short time-span. No business case was evident for this assignment.
- 3.29 The issue of experience, particularly how it is scored, is critical to delivering best value. There is no doubt that relevant experience of delivering a particular service and sometimes working within a particular sector or organisation is important in that it can demonstrate appropriate skills, knowledge and quality of service delivery. It also provides the tendering organisation or individual with a valuable insight to the client organisation. This however needs to be balanced against the actual requirement or need within an organisation. New suppliers should not be disadvantaged, when specific experience of an organisation or a part of government, is not a core requirement to delivering the assignment. New suppliers may also be able to bring a new and often independent perspective, while providing greater scope to deliver value for money through increased competition.
- 3.30 The need to critically examine how experience is determined and scored is perhaps more critical in the criminal justice system where many potential suppliers were either not included on select lists or unwilling to work with particular organisations. How experience is determined and assessed can have a significant bearing on access for these potential suppliers. The review of contract files did show some concerns in this regard. The business case for one project in a criminal justice



organisation stated a requirement for the technical aspects of an assignment (i.e. specialist knowledge of the subject and experience of identifying and delivering opportunities for the proposed approach), which was approved by the Minister. The later developed terms of reference added 'broad knowledge of the NIO structure and associated bodies' which then became a key criterion for the scoring of tenders.

- 3.31 A separate project in another organisation had a terms of reference which listed a range of skills and experience, one of which was knowledge of the criminal justice system in Northern Ireland (well down the list), yet the notes on scoring for experience only related to experience in the specific organisation with no mention of the other types of experience. The notes stated that the particular consultants 'have worked with ... on this project for past three years so no question over relevant experience and knowledge of the criminal justice system'. This firm received a maximum score for this experience, which accounted for 40% of the overall score. The emphasis on experience of a particular organisation, or of the criminal justice system, when that is not a specific requirement of the assignment, clearly favours organisations which are already working in this area and inhibits increased competition. Feedback from one consultant (in a large consultancy firm) confirmed a reluctance to tender for criminal justice contracts due to the interpretation of this type of 'local' experience. Another stated that they

do "bid for everything but do not have a fair chance".

- 3.32 It is clear that relevant experience is a determining factor in the planning and selection of suppliers. In the interests of competition, value for money and access to broader knowledge and experiences, there is a responsibility on the criminal justice system to identify means and implement actions to widen the supplier base. It is legitimate to set objectives in this regard (e.g. to promote access to small and medium sized enterprises), though this needs to be incorporated into the planning stages of assignments and not when the procurement process has already commenced. It is recommended that **a consistent and transparent approach to the definition and application of 'relevant experience' should be implemented for all tenders involving external consultants in the criminal justice system.**
- 3.33 The approval process for consultancy contracts has been strengthened, primarily through the requirement for Ministerial approval for contracts over £50,000. The DFP instruction is clear that thresholds 'apply to the total cost of individual consultancy assignments, irrespective of the time taken to complete the assignment. Costs should not be split into part-payments so as to avoid approval requirements'. The NIO Departmental Audit Committee noted that Ministerial approval was not being sought in all cases which led the NIO Director of Resources to issue a note reminding staff of the importance of meeting this

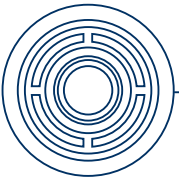


requirement. Separately, an NIO internal audit found examples of approval having been sought retrospectively (even with larger projects) and one contract which had no Ministerial approval. The CJI review of contract files showed evidence of Ministerial approval, though in one case this was given with *'some reluctance'* due to the high fee rates involved. The price was subsequently reduced following discussions with the selected firm.

**monitoring arrangements for consultancy should be extended to cover staff substitution across the criminal justice system.**

- 3.34 The decision to award a contract to the winning firm or individual is generally straightforward. Problems may arise if objections to the procurement process are lodged as was the case with a recent large contract in the PSNI which was the subject of a court case. It must also be stated that the Judge in this case stated that it was *"one of the stronger public procurement cases which I have encountered"*.
- 3.35 Inspectors are assured that appropriate approval and authorisation processes are now applied by the criminal justice organisations for the tendering and award of consultancy assignments and that this is supported by policy guidance and monitoring arrangements. The main focus has been on consultancy – an area of external non-pay expenditure which has shown a decline in recent years. The use of external consultants for staff substitution and elements of some contracted out services, which is an increasing proportion of non-pay expenditure, is subject to a less robust approach. **The existing approval, authorisation and**





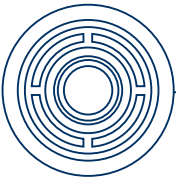
## CHAPTER 4:

# Managing consultants



### Project management

- 4.1 Ensuring value for money is not confined to the procurement processes and needs to be extended into project management and post contract evaluation. Effective and robust project management is critical to ensuring that the external consultants deliver the stated requirements within the agreed timescales and costs. NIO policy advises the use of a suitable project management methodology such as PRINCE 2 to ensure that skills transfer takes place from the consultant to in-house staff. Recent audits and reviews have pointed to weaknesses across the public sector in this regard.
- 4.2 A review of a sample of contract files shows that large projects tend to have more formal and rigorous project management arrangements in line with their higher level of risks. The OGC gateway review process has been applied in some of these projects such as the new prison accommodation project in the NIPS. The approach to the management of smaller projects is more ad hoc and less formalised with managers generally having lower levels of skills and experience.
- 4.3 Part of this problem is due to a lack of management oversight where strategic and operational responsibility is delegated to project level. Inspectors are in agreement with the findings of recent audit reports that the Director of Finance in an organisation should be satisfied that arrangements are in place that will ensure that the project is properly managed which should include a project manager, regular liaison, targets, action plan and post project evaluation. This lack of ownership was raised by a number of project managers during this inspection.
- 4.4 Inspectors did find elements of good practice in terms of project management. The concept of strategic governance is practised by the NICtS in terms of its Contracts Governance Committee which meets quarterly to review its major contracts and attempts to draw down key lessons and opportunities for learning. Effective use of internal skills and resources was demonstrated in the PPS where internal staff have managed the new accommodation project and achieved value for money on a fixed price contract. The project manager has received external assistance (e.g.




quality assurance by DFP) and internal support (e.g. project and implementation boards have maintained oversight and informed via reports).

- 4.5 Inspectors are concerned that the learning and best practice, gained through projects such as the new accommodation project in the PPS, does not appear to be known about in other parts of the criminal justice system. The NIPS for example, are undertaking a similar project in relation to prison accommodation, but no linkages were evident at the time of inspection. Many reports have referred to the skills deficit in project management across the public and some parts of the private sector. This has contributed to the decision by the NIPS to procure an external consultant to act as project manager for the new prison project.
- 4.6 The consequences of poor project management can be severe. It can lead to contract extensions and cost over-runs which may negate any value for money gains made in the tendering process. Some of the biggest cost over-runs relates to the provision of temporary and agency staff which were not anticipated or underestimated at point of tendering, but were subsequently added to existing contracts. There is a need to enhance project management skills in criminal justice organisations and link it to wider developments such as training with the Centre of Applied Learning which helps to build up capacity within the private sector on project management.
- 4.7 A broader strategic issue for project

managers and finance directors is the extension or transition of an assignment from consultancy into one that becomes staff substitution. Inspectors reviewed a number of contracts, which were augmented by interviews in organisations, which showed time-limited consultancy projects becoming more open-ended staff substitution assignments. One example is the project management for the Causeway project, where two consultants have been retained on a long-term basis to deliver project management. The cost for each consultant has been over £100,000 per year. A separate contract for a Finance Director in NICtS has cost over £200,000 in each of the last two years. A number of external project managers in the PSNI are charged at consultancy rates from a call-off contract, even when the projects have become long-term. Using daily consultancy rates for long-term assignments, often classified as staff substitution, does not represent best value and should be subject to more evident efficiency savings. It is recommended that **criminal justice organisations should work with the CPD in DFP to strengthen project management arrangements including dealing with contract variations. Opportunities for best practice should be received and shared with other parts of the criminal justice system and public sector.**

#### Benefits of using consultants

- 4.8 Measuring and assessing the benefits of using external consultants can be problematic. The NAO in its report



on consultants stated that *'it is not possible to make an overall assessment of the benefits that have arisen from the money spent on consultants, in part because departments rarely collect any information on what has been achieved'*.<sup>29</sup> A Management Consultancy Association (MCA) survey found that almost half of all organisations do not attempt to quantify the return on investment from using consultants. The criminal justice system is no different in this regard in that few assessments of projects were available to Inspectors. A NIO internal audit of a criminal justice agency reported that there was no formal post-evaluation in most contracts examined.

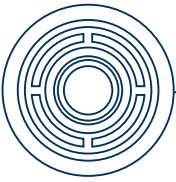
- 4.9 The most recent guidance from DFP provides a template for the preparation of a business case which, in turn, is linked to a post project evaluation form. The main categories of the evaluation form are: background to the assignment; assessment of costs; assessment of deliverables; assessment of benefits; division of work; skills transfer; assessment of project management arrangements; and conclusions and recommendations.
- 4.10 The key principle, as contained in NIO and DFP guidance on consultants - to ensure knowledge and skills transfer takes place - is undermined by the systematic non-use of post project evaluations. The NAO found that departments do not regularly plan for and carry out the transfer of skills from consultants to internal staff to build internal

capacities. Inspectors were told of some projects which did lead to skill transfers, though these were a minority and the skill transfer in one case was accidental, as the agency was forced to develop new skills in response to inadequacies of the consultant. An alternative perspective was raised by one finance manager who stated that there was some reluctance from civil servants to take on new skills. Another agency preferred to purchase these skills from consulting firms as enhancing the skills of internal staff raised a risk of retention – staff with enhanced skills could be recruited by other public or private sector bodies.

- 4.11 The lack of a proper assessment/post contract review process also undermines any evaluation of supplier performance. There is little means to deal with unsatisfactory performance, and this is made worse by not sharing concerns with other public bodies. Inspectors heard a range of views about unsatisfactory performance of consultants, but this was rarely accompanied by any sanctions. One agency referred to a large report which was generally regarded as poor and had to be followed by an internal review. Whilst it has led to reluctance to employ other consultants, this particular consultant did not receive any sanction such as part non-payment. There were a small number of examples of agencies taking action in relation to non-performance but this was the exception rather than the rule. There is some anecdotal evidence to

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<sup>29</sup> Central government's use of consultants, NAO, December 2006.



suggest that consulting firms, with a poor record in a particular organisation, are excluded for smaller contracts (i.e. those of less than £30,000 not requiring advertisement) as these firms are pre-selected by the client to submit tenders.

- 4.12 DFP guidance states that post-project evaluations should be completed for all assignments to ensure that the objectives of the assignment have been met and lessons learned. The OGC recommends that this should take place within six months of project completion. The NIO Policy states that the project manager is responsible for reviewing completed projects and providing a written evaluation to Senior Management and the Procurement Unit (now CoPE in CPD). A more robust approach to the gathering of this information would lead to a database of performance and allow for greater dissemination of best practice. In the absence of benefits realisation, it is clear that agencies are driven by minimum cost rather than best value and it also reinforces existing practices. Inspectors recommend that **criminal justice organisations should follow the guidance of NIO and DFP policy on completing and utilising post-project evaluations.**

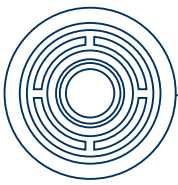
- 4.13 Using external consultants is an expensive resource and as with other aspects of public expenditure, there needs to be robust systems and procedures in place for the procurement and management of consultants to ensure value for money to the tax payer. Monitoring and assessing the effectiveness of

these systems and procedures should be a key function for all criminal justice organisations. This is a responsibility which should rest with Audit Committees and the Boards of the various organisations. It is recommended that **each of the main criminal justice agencies should prepare an annual report on its use of external consultants (consultancy and staff substitution) which should be presented to its Audit Committee and Board.**

Section



# Appendices



## Appendix 1: Methodology

The inspection commenced in February 2008. The key aims of the inspection were to:

- determine the breakdown of spending on external consultants by the criminal justice system to identify patterns of expenditure;
- review strategy and policies for use of consultants, including levels of compliance;
- examine the procurement process including identification of need, tendering and awarding of contracts, management of projects and post project evaluations;
- assess the potential for any conflicts of interests;
- gather the views of external consultants as suppliers; and
- consider how the added value of external consultancy is obtained.

The inspection was carried out in four phases:

1. Preparation
2. Hypotheses formation
3. Fieldwork
4. Feedback and refinement

### 1. Preparation

Activities included:

- preparation and dissemination of terms of reference to inspected organisations;
- identification of all relevant research, studies and inspections on the procurement and use of consultants;
- determination of information and data needs;
- meetings with NIO and requesting expenditure data on consultancy and staff substitution as part of the annual return on the use of consultants; and
- developing collaborative relationship with the Northern Ireland Audit Office, including secondment of staff member to inspection team.

### 2. Hypotheses formation

A hypothesis meeting was held after the initial set of meetings with the stakeholders and when the relevant documentation was reviewed. A set of questions was then developed for use in the fieldwork stage of the inspection.



### **3. Fieldwork**

The main fieldwork involving meetings with finance, procurement and project managers, took place during the summer of 2008. This covered all the main criminal justice agencies except the PSNI. Inspectors agreed with the PSNI that any interviews or further reviews of cases should await completion of the Northern Ireland Policing Board commissioned review of consultancy and managed services. A preliminary draft of this review was provided to Inspectors in August 2008 and the final report was published in December 2008. A small number of meetings were subsequently arranged with the PSNI.

The views of a range of other stakeholders were obtained. This included:

- NIO Procurement Unit;
- NIO Internal Audit Unit;
- Central Procurement Directorate of the Department of Finance and Personnel;
- Northern Ireland Audit Office; and
- Consultants.

A review of a sample of cases (obtained within the CJS agencies and the NIO Procurement Unit) was undertaken. These cases were selected to reflect a broad spectrum of contracts across the criminal justice system as well as ensuring that the largest contracts were included.

### **4. Feedback and refinement**

A draft of the report was sent to the main criminal justice agencies for a factual accuracy check in December 2009.





## Appendix 2: Analysis of expenditure

### Suppliers of Consultancy to the CJS 2005-06 to 2007-08 (£'s)

FIRM	2005-06	2006-07	2007-08	Total
A	5,559,854	3,257,672	3,736,899	12,554,425
B	840,526	981,830	0	1,822,356
C	298,863	477,149	86,641	862,653
D	311,651	238,674	8,410	558,735
E	245,713	88,975	177,776	512,464
F	0	0	513,000	513,000
G	321,261	170,393	11,000	502,654
H	0	244,000	138,000	382,000
I	123,900	91,225	136,355	351,480
J	23,402	155,130	98,000	276,532

### Suppliers of Staff Substitution to the CJS 2005-06 to 2007-08 (£'s)

FIRM	2005-06	2006-07	2007-08	Total
A	99,360	2,272,292	2,883,719	5,255,371
K	369,202	1,078,934	126,812	1,574,948
L	0	99,991	99,991	470,935
E	6,000	17,066	325,932	348,998
M	151,175	151,175	0	302,350
N	70,002	93,586	78,699	242,286
O	85,549	85,549	0	171,098
P	79,000	79,000	0	158,000
Q	0	0	136,873	136,873
D	60,709	68,646	0	129,355



## Appendix 3: Linked recommendations

### Data on Consultants

Departments as a priority should take action to improve the quality of their information on procurement of professional services (NAO).

Department should revisit its definition of consultancy to determine precisely what it should be recording...should develop clear and simple definitions of consultancy to ensure complete and accurate reporting (NIAO).

Department to produce accurate, comprehensive and relevant management information on issues such as the value of overall consultancy input and that of individual suppliers; the proportion of contracts which are competitively tendered; the full life costs of individual assignments; the performance of suppliers; and the scope for collaborative projects to reduce duplication (NIAO).

Departments to make either the Finance Director or head of procurement responsible for ensuring that management information is collected, analysed and acted upon (NAO).

### Identifying Need

Departments need to assess how best to divide work between internal and external staff (NAO).

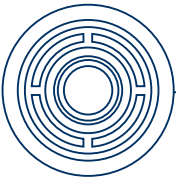
Departments should clearly state their strategic aims when procuring and using external assistance (NAO).

Business cases and detailed requirements should be routinely written for the use of consultants (NAO).

Departments should implement the guidance set out in documents such as the *Northern Ireland Practical Guide to the Green Book* and put in place system, where they do not already exist, to ensure that projects estimated to cost in excess of £10,000 are supported by an appropriate business case, and are properly approved (NIAO)

Due to the nature of consultancy services, it is our opinion that all decisions made should be presented in the prescribed format of Annex A to the *NIO Policy on the Use of Consultants/Professional Services* and a Business Case produced in line with HM Treasury *Green Book* standards (NIPB).

As part of any procurement exercise, Business Units should be required to formally assess and document the assessment of the supplier marketplace to a level commensurate with the value of the contract. Whilst we acknowledge that not all potential service providers may be identified, the exercise should at least provide assurances that the Business Units have considered the marketplace in each instance, thus demonstrating that the market has been appropriately tested and best value has been strived for (NIPB).



Our review has identified a number of policies and procedures in operation within the organisation which attempt to direct and assist Business Units with all procurement exercises. Due to the nature of procuring services from external consultants/contracted out services, the Business Unit requires to be aware of a number of factors to ensure that the exercise delivers what is required and within the recognised parameters. These factors are not just procurement issues, they relate to amongst others, Business Case development and ongoing Benefits Management monitoring. Consequently, consideration should be given to providing additional guidance to Business Units on the application of PD08/04 and the NIO Policy to improve the management of consultancy contracts, ensuring a through-life contract/consultant management system is in place (NIPB).

Skills transfer should be encouraged, where appropriate, to increase departmental capacity (NAO).

### **Achieving Value for money (competition)**

Departments need to reduce the number of contracts awarded by single tender (NAO).

Departments should put in place management systems to promote competitive tendering. Departments should set targets to reduce the value of consultancy which is tendered non-competitively, and should record the extent if single point tendering to monitor progress over time (NIAO).

Departments need to make more use of framework agreements (NAO).

Departments are reminded of the benefits of the Framework and are encouraged to make fuller use of it (NIAO).

With regard to the specific contract highlighted (IS Business and Technical Support Services), we acknowledge that it is due to complete early in 2009 and would not recommend any action in relation to it specifically. However, we would recommend that for future similar contracts within ICS and the organisation generally, consideration should be given to assessing the possibility of awarding contracts on a multi-supplier framework basis, thus enabling PSNI to utilise more than one single supplier. This would reduce the organisation's reliance, perceived or actual, on one key supplier for these services and also potentially enhance the overall quality of the supplier marketplace (NIPB).

The basic procurement philosophy as regards ensuring competition, properly evaluating bids and controlling the costs of the procurement must be followed (NAO).

Departments to share consulting contract information with other departments and across their own department to help identify opportunities for collaborative purchasing (NAO).

Departments should network and communicate more effectively to assess the opportunities for collaborative purchasing (NIAO).



Departments need to ensure that qualified procurement staff are involved in procurement decisions (NAO).

The relations with key consultancy suppliers should be managed to understand the drivers for the department and suppliers (NAO).

### **Improving Project Management**

Departments need to create clear project structures and boundaries for decision making authority and action (NAO).

Departments need to be alive to project risks and their capacity to deal with them (NAO).

Departments need to pro-actively manage consultancy assignments...should work with the CPD in DFP to control the number of contract extensions and the value of fee increases (NIAO).

The CM01 Assessment process should be developed to ensure that contract managers are required to assess the progress of the service being procured against the originally defined benefits in the business case/approval document, as well as the overall performance of the supplier (NIPB).

The issue of contract variations is inextricably linked to the development of business cases and the procuring department's ability to understand exactly what it requires. We would recommend that prior to a variation being approved, the original contract and business case should be revisited to ensure that value would not be better achieved via a further procurement exercise (NIPB).

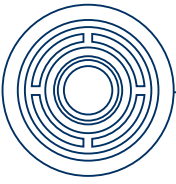
PSNI should undertake regular reviews of the estimated prices of STA contracts and the actual bid prices to ensure that effective planning has occurred and to reduce the risk of suppliers taking advantage of the situation (NIPB).

The driver for the Terms and Conditions should always be the procuring organisation i.e. PSNI. Payments should not be made to suppliers who have not agreed to deliver services in line with the Terms and Conditions (NIPB).

### **Achieving Benefits**

Departments need to undertake post engagement reviews and share this information with other departments and across their own departments. Departments should use this information and tend to seek references when assessing suppliers (NAO).

Departments should adhere to DFP guidance which requires departments to put in place arrangement to ensure that projects undergo appropriate formal post competition assessment, and that the results of these assessments are disseminated widely (NIAO).




Any generic issues arising from both In-Contract and Post Contract evaluations should be collated by PSNI Procurement Unit and distributed to all Heads of Business Services to ensure that the organisation as a whole benefits from individual lessons learnt/good practice examples (NIPB).

Further Policy/Guidance should be developed by PSNI Procurement Unit in conjunction with the Heads of Business Services in relation to both In-Contract Benefits Management and post project evaluation (NIPB).

Benefits management and post project evaluation should be incorporated within each contract's terms and conditions and drawn to the attention of successful suppliers to ensure that they are aware of the procedures and can input to the process as required (NIPB).

Implementation managers should be appointed for each consultancy project and a formal action plan should be established and implemented on completion of the consultancy assignment (NIAO).

Authorities should regularly re-asses the relationship with contractors and the value for money their projects are delivering, to identify ways in which relationships can be improved (NAO).



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