

STATES OF JERSEY

COMMITTEE OF INQUIRY INTO TENDER PROCESS AND AWARD OF BUS SERVICE CONTRACT

BLAMPIED ROOM, STATES BUILDING

Committee: **Mr Huw Shephard (President)**
 Mr Christopher Blackstone (Member)
 Mr Trevor Garrett (Member)

In attendance **Mr Mac Spence (Committee Clerk)**

EVIDENCE FROM:

MR R. CHILDS
(Halcrow Group)

on

Wednesday, 26th January 2005

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MR SHEPHEARD: Ladies and gentlemen, good morning. The Committee of Inquiry into the bus tendering process is now in order and we will commence our hearing. We will receive first the evidence of Mr Roger Childs of Messrs Halcrow, please.

MR CHILDS: May I take my jacket off?

MR SHEPHEARD: Not at all, Mr Childs. We would like you to be as comfortable as possible. Mr Childs, the inquiry is receiving evidence on oath and I will proceed immediately to swear you in.

The witness was sworn

MR SHEPHEARD: Thank you, Mr Childs. Now, we understand that you are employed by Halcrow's?

MR CHILDS: Yes.

MR SHEPHEARD: And that you were the project director for the work done for the Public Services Department here in Jersey in relation to the tendering process that resulted in the bus contract being awarded to Connex; is that right?

MR CHILDS: Yes, that's correct.

MR SHEPHEARD: My colleagues, Mr Blackstone and Mr Garrett, will be asking you most of the questions, although I will probably want to ask one or two things to clear up one or two points as we go along or when my colleagues have finished. Mr Blackstone?

MR BLACKSTONE: Mr Childs, you were in overall charge as project manager?

MR CHILDS: As project director, yes.

MR BLACKSTONE: As project director.

MR CHILDS: Yes.

MR BLACKSTONE: Apart from Mr Macklin and Mr Davies, were any other Halcrow personnel involved?

MR CHILDS: Occasionally a technician involved with drawing up maps, producing documents and one other bus specialist for one or two pieces of the work much later in the process to do with assessing the size of the Transportation Centre, but that was work in 2003.

MR BLACKSTONE: And those were both essentially technical points ----

MR CHILDS: Yes.

MR BLACKSTONE: ---- and not managerial or nothing to do with negotiations.

MR CHILDS: No, no.

MR BLACKSTONE: Who engaged Halcrow for this assignment?

MR CHILDS: The Public Services Department of the States of Jersey.

MR BLACKSTONE: Do you have a letter of engagement?

MR CHILDS: We have an initial letter of engagement for the first tranche of the work which established the principles by which the States would procure the bus operation and then a series of instructions generally.

MR BLACKSTONE: And have all of these been submitted to the Committee of Inquiry in your papers?

MR CHILDS: They are available to the Committee of Inquiry. They have not all been submitted to the Committee of Inquiry.

MR BLACKSTONE: Certainly the first letter of engagement I don't think I've seen, and we would like to see that, please.

MR CHILDS: Okay. As I recall, the process involved me producing a short technical note (as we call them), which was a proposal for the work and then a confirmation order from the States, which is a form, a formal order to carry out the work. I can make those available. I have the first document with me. The actual order forms are on the financial file at the office and that can be supplied.

MR BLACKSTONE: Good. I am sure Mr Spence will be able to take copies of those for you.

MR SPENCE: Yes. Thank you.

MR BLACKSTONE: If we could have copies of those today, please? When did Halcrow first work on the Jersey bus assignment?

MR CHILDS: On this Jersey bus assignment?

MR BLACKSTONE: Sorry, anything to do with the Jersey buses.

MR CHILDS: In late '97/early '98 we did a short piece of work on the Transportation Centre when that was first being considered and there was a discussion between the States and the

Waterfront Enterprise Board on the formal operation of the Transportation Centre, and I was engaged for perhaps three or four days' work only at that time.

MR BLACKSTONE: I'm thinking more specifically on the work on the bus tendering process.

MR CHILDS: In June 2001 we were contacted and asked to put forward ... the principles of the Bus Strategy were explained to me by Mr Muir and he asked me to put forward a proposal to carry them forward to fruition. This is the technical note I referred to a moment ago.

MR BLACKSTONE: Hmm hmm.

MR CHILDS: I think that was June -- no, sorry, July 2001.

Pause while Mr Childs was asked to use a different microphone

MR BLACKSTONE: Mr Childs, I have here a document prepared by Halcrow, I assume, "*Halcrow Jersey Bus Strategy Implementation Issues and Methodology*". Paragraph 4.2 goes: "*We see the key dates as follows, subject to legislation approval by the States. End July 2000, States approval to proceed; early August 2000,*" etc, etc, etc. If you didn't start until 2001, what are you proposing a start date in 2000 for?

MR CHILDS: Um, I can't account for that. I would need to just refer to that.

MR BLACKSTONE: Would you like to have a look at that document and confirm that it does come from Halcrow? **(Same handed)**

MR CHILDS: Thank you. **(Pause)** I think this was the earlier document I referred to. Certainly the process did not begin until ----

MR BLACKSTONE: But that does not refer to the bus terminus or anything. That is the tendering process.

MR CHILDS: No, no, that was much earlier than that. This was an earlier document. I think there was some delay in getting the process going on behalf of the States.

MR BLACKSTONE: So you did start working on the tendering process in mid-2000 and not 2001?

MR CHILDS: I must say that is not my recollection of it, Sir, but clearly this ----

MR BLACKSTONE: But that document is fairly clear.

MR CHILDS: Yes.

MR BLACKSTONE: And that is a Halcrow document?

MR CHILDS: It is certainly a Halcrow document.

MR BLACKSTONE: Produced in mid-2000?

MR CHILDS: There is a date of September 2000 on it.

MR BLACKSTONE: If you look at the bottom of the document, you will see also a file reference.

MR CHILDS: Yes.

MR BLACKSTONE: “C:\Documents\MuirA\Local Settings\Temporary Internet Files\September 2000”, which surely does confirm that this work was done in 2000 and not 2001?

MR CHILDS: It does. That is a Jersey State’s reference and not our own.

MR BLACKSTONE: I know that. I realise that, but it confirms ----

MR CHILDS: Yes.

MR BLACKSTONE: ---- that your own dates were 2000.

MR CHILDS: Yes, yes, but that was ... the work proper took some time to gestate and the work carried forward from there.

MR BLACKSTONE: But who invited you specifically? Who invited you to carry out this work in September 2000 ... sorry, in June or even earlier 2000, when Jersey Bus was in active negotiations with Public Services?

MR CHILDS: That was Mr Muir. My initial contact was with Mr Muir. I had an initial phone call from Mr Crowcroft, but that was very much an early exploratory discussion.

MR BLACKSTONE: When would that have been?

MR CHILDS: Well, I guess it would have been in June, May/June of, it must have been, 2000.

MR BLACKSTONE: What did Mr Crowcroft say?

MR CHILDS: I can’t recall the content, but he had ... I had met him when we were doing the Transportation Centre work some time earlier and I think it was just an initial enquiry about whether we would be interested in doing this work, but I appreciate that he had no authority to award me work. It was very much an informal call.

MR BLACKSTONE: Well, he wasn't President of the Public Services Committee at that time?

MR CHILDS: No, simply a local politician, as I understand it.

MR BLACKSTONE: Hmm?

MR CHILDS: Simply a local politician.

MR BLACKSTONE: So he called you as a politician and not as President of the Public Services Committee?

MR CHILDS: Well, he didn't say what rôle he was calling me in, but he certainly called me. I didn't make detailed notes of the conversation.

MR BLACKSTONE: And you have no recollection of the call, really what it contained, other than he probably asked you if you would do a tendering document?

MR CHILDS: No, I don't. I think he was just making a general enquiry about the possibility of this work coming forward, but my contract to carry out the work was eventually with PSD and my main technical contact was with Mr Muir.

MR BLACKSTONE: Yes. Well, they are the operations end of PSD, if you would like to put it that way.

MR CHILDS: Yes.

MR BLACKSTONE: So, in your further conversation with Mr Muir, he told you to go ahead presumably and prepare a survey of the tendering process?

MR CHILDS: I took on board the principles that the Bus Strategy had adopted.

MR BLACKSTONE: Sorry, the Bus Strategy, I think, came in 1991.

MR CHILDS: 1991?

MR BLACKSTONE: Sorry, 2001.

MR CHILDS: Right.

MR BLACKSTONE: And we're talking about 2000 and the Bus Strategy wasn't even in place then.

MR CHILDS: But there was ... the genesis of it had in fact, I understand, begun. He asked me to put forward a general discussion paper on how the States might go about engaging or forming a contractual arrangement with a bus operator.

MR BLACKSTONE: Fine. Early days. Could I have that document back, please? (**Same handed**) Thank you. Now, we know that Mr Macklin had interviews with Jersey Bus and Anglian Coaches in the clarification meetings. Did you do any of the other ones yourself or?

MR CHILDS: I saw Dunn-Line.

MR BLACKSTONE: Could you tell us in some detail, please, what your personal involvement was in the preparation of the initial documentation, communication with the tenderers and the assessment of the bids?

MR CHILDS: Yes. As a very hands-on director of the project and having a general experience in this sort of work from previous employment, I was very involved in the process, in working closely with Mr Macklin and Mr Davies. The process involved, first of all, ensuring that a level playing field existed, in terms of all the potential bidders, and the issuing, in September 2001, of advertisements in the trade press that sought expressions of interest from operators world-wide. I agreed the steps to be adopted in the process of securing and generating interest in the operation of buses on the Island. Mr Davies handled most of the day to day administration of that process.

MR BLACKSTONE: I think ... we have spoken to Mr Davies yesterday ----

MR CHILDS: Yes.

MR BLACKSTONE: ---- and he was essential office and admin, although he did come to Jersey on one or two occasions, but was not directly involved in the tendering or the assessment of the bids or meeting any of the people.

MR CHILDS: That's correct. Mr Macklin and myself did most of the work on the actual formulation of the conditions of contract and on the assessment of the bids. In fact, Mr Macklin and myself came over to Jersey on 20th Feb '02 to ... we brought with us the bids that had been submitted directly to my office. Jersey Bus, quite reasonably, had requested that their bid be deposited directly with the States. It was pointless trusting airlines to bring it to the UK and us to bring it back again. We spent three days here on 20th, 21st and 22nd to observe the opening of the tenders and then take the bids -- there were five bidders -- and analyse the compliant and non-compliant bids in order to produce an initial note on the bids, which we did at the end of that week. (**Pause**) And in fact there is a note. We have this, a technical note dated 22nd Feb '02,

which is our preliminary assessment of those tender bids.

MR BLACKSTONE: Hmm. Yes, we have that. In the opening of the bids and the preliminary assessment -- indeed through the assessment process -- were you working on your own or were you working together with officials of PSD and in consultation with them?

MR CHILDS: In consultation, but largely on our own. We had a room made available to us at the South Hill offices. **(Pause)** I would add that there were many and frequent consultations with Mr Muir mainly throughout the process from later in 2001 to the point of delivery of our first part of the work, which was the assessment of the bids, in 2002.

MR BLACKSTONE: From the PSD, it was mostly Mr Muir who was involved?

MR CHILDS: Yes.

MR BLACKSTONE: Mr Richardson as well?

MR CHILDS: Mr Richardson on some occasions. Mr Swinnerton, of course, in the early days, Dr Swinnerton.

MR BLACKSTONE: Mr Collier at all?

MR CHILDS: Not in the early days, no. Mr Collier came on board as the transport co-ordinator. I mean, I had met Mr Collier and discussed various issues with him, but mainly I would say from March '02 onwards. I might add that our rôle at the end of March, the point at which the tenders were assessed, as it were, and a report handed over to the States, was much more reactionary to individual points, checks etc raised by the States. In fact, our work input to the Jersey project fell away considerably from March '02.

MR BLACKSTONE: Right. Going back a bit, before we got into the tendering process, Jersey Bus were negotiating for a final year of their service before the new contractor was appointed.

MR CHILDS: Yes.

MR BLACKSTONE: And you got involved in negotiating with them, I believe, a fair rate of return for certain routes.

MR CHILDS: Yes, yes.

MR BLACKSTONE: Did you meet with Mr Griffiths, their consultant, at this time?

MR CHILDS: I met with Mr Cotillard and Mr Chris Lewis.

MR BLACKSTONE: Yes.

MR CHILDS: I don't recall meeting with Mr Griffiths.

MR BLACKSTONE: Mr Griffiths was the bus consultant appointed by PSD to deal with Jersey Bus in the earlier days.

MR CHILDS: No, no.

MR BLACKSTONE: And you never met him subsequently because I believe he was also advising subsequently during Connex's term?

MR CHILDS: I don't recall any meeting with Mr Griffiths.

MR BLACKSTONE: But you had heard of him?

MR CHILDS: No, no. I may have been made aware of him at the time, but I don't recall that. We are talking, um, almost four years ago now.

MR BLACKSTONE: Anyway, the main point of this early exercise with Jersey Bus was to establish a fair rate of return, I believe.

MR CHILDS: It was to provide financial support to Jersey Bus over the winter period of 2001-2, particularly in respect of a number of very poorly performing individual services. **(Pause)** I would add also that I did sign a confidentiality agreement, as I think did Mr Muir, with Jersey Bus that I would not divulge ----

MR BLACKSTONE: As to the review of their accounts?

MR CHILDS: Yes, yes. Well, it was operating data, yes.

MR BLACKSTONE: No problem. I think this is all long past history. I don't think we are too concerned with the confidentiality of those earlier accounts now. You might make a note that Mr Lewis agreed that we may discuss the accounts. I think you were dealing then with a proposal for a rate of return, a mark-up on costing, of 15%?

MR CHILDS: That was the level of rate of return which Jersey Bus wished to see.

MR BLACKSTONE: In your, I believe, considerable experience of transportation operations, would you consider that was a reasonable or an unreasonable level of return?

MR CHILDS: I think it is a reasonable aim, but in the industry generally it was well in excess of what was actually materialising. Typically, it may have been the aim of large groups, for

example Stagecoach, to achieve that sort of return, but returns had varied considerably over the years and a rate of 10% or 12% is generally considered to be very good. Operators declared varying rates of return over the years and, looking at corporate accounts and declarations overall, it is very difficult to make an assessment about what they achieved and whether that was reasonable, because the large groups have very, very many other transport and other interests, so return on bus for the Go-Ahead Group could be masked by performance on their rail operations or their airport handling operations, but, in terms of bus operations, 15% would be exceptionally good, in my view and very much a testing aim.

MR BLACKSTONE: A smiley factor?

MR CHILDS: Yes.

MR BLACKSTONE: Yes. And yet, in the tenders submitted, Connex was lower at 8.8, yes, but most people came in at 12 and Anglian came in at 15 and Southern Vectis at something over 20, I think.

MR CHILDS: Yes.

MR BLACKSTONE: So you think that Anglian and Southern Vectis were excessive in their assessments?

MR CHILDS: I didn't ... I didn't comment on the level of profit, as to whether it was excessive or otherwise. What we were interested in, in assessing the bids, was the overall composition of costs and the overall ability of the operator to deliver a complete service on the Island. Certainly the 8.8 -- call it 9% -- declared by Connex was in line with the level of declared profits for London based tenders. London operates a totally different system than the rest of the UK or mainland UK.

MR BLACKSTONE: Possibly even London doesn't have wage rates quite like we do in Jersey.

MR CHILDS: Um, it didn't at the time, no. There has been an arrangement put in place by the Mayor recently to top up directly the wages of platform staff in order to stabilise the recruitment situation, but, no, that was certainly the case and Jersey wages were somewhat higher.

MR BLACKSTONE: But if it had been proposed to Jersey Bus that their Jersey operations in 2001 and subsequent years should operate at a return of 5.3%, you would consider that

unreasonable, would you?

MR CHILDS: I would understand why the operator could consider it unreasonable. It is a very low rate of return and, of course ----

MR BLACKSTONE: Sorry, you say it is very unreasonable?

MR CHILDS: Er, I can understand why they would consider it to be unreasonable. It is a low rate of return and, of course, at low rates of return as a business you are much more vulnerable to fluctuations in your other costs, such as interest or fuel, for example.

MR BLACKSTONE: Yeah.

MR CHILDS: But I would add that during the negotiations in August/September 2001 on the interim payment, we considered a full costing presentation from Jersey Bus. What they were wishing to do was cut at the margins of the operation and make relatively small changes compared with the size of the operation as a whole. In my experience, it is quite usual for operators to present full costs and to expect a payment based on the average cost per mile or per kilometre of operation.

MR BLACKSTONE: Yeah.

MR CHILDS: Whereas, in fact, making marginal changes means that certain costs simply cannot be saved -- the overhead of the garage or maintenance, etc. So the negotiation which we came through with was based on the marginal cost of those services and we had very detailed and very well presented data from Jersey Bus on that which enabled us to get the marginal cost. Eventually the settlement was based on the marginal cost, so we focused on costs with an uplift to reflect a profit margin, but, in fact, simply arranged a payment based on the margin of savings that would be achieved if the services were indeed reduced or cut totally.

MR BLACKSTONE: The accounting you saw from Jersey Bus, was that their audited accounts?

MR CHILDS: I believe so, yes.

MR BLACKSTONE: And also route costings?

MR CHILDS: The main data was in fact route by route costings with each element of the operation identified and apportioned to the routes -- fuel, drivers' wages, cleaning, etc.

MR BLACKSTONE: And you say the information was detailed and well presented?

MR CHILDS: Yes.

MR BLACKSTONE: And they didn't try to hold back any information from you?

MR CHILDS: I'm not aware that they did. Certainly the information was more than adequate for the purposes that it was intended to be used for.

MR BLACKSTONE: Did you feel it necessary to ask for the accounts of any other companies within the Diamond Group?

MR CHILDS: No. No, I was simply concerned with the costs of, the marginal costs of, the operation of the bus services that were subject to proposed cuts.

MR BLACKSTONE: Can you imagine why you or anybody else studying the bus operations in Jersey should want to see accounts of the Living Legend or the Board Walk Café or sundry other operations?

MR CHILDS: I wasn't fully aware at the time of the extent of the Diamond Group. I have dealt with many bus companies, many transport operations where there are other connections to other businesses and I've not in general been concerned with the financial performance or accounts of the other businesses.

MR BLACKSTONE: There is surely no reason to, is there?

MR CHILDS: I don't see any reason to personally.

MR BLACKSTONE: Were you aware at the time that Jersey Bus had made an offer to PSC to continue with their three to five year agreement and that this offer had been rejected by PSC on the grounds that they had not submitted proper accounts?

MR CHILDS: I was copied in by Mr Muir and Mr Swinnerton to some correspondence around July/August 2001 with copy of an offer.

MR BLACKSTONE: Sorry, copy of?

MR CHILDS: Copy of an offer of a service level agreement, so I was broadly aware of that. In fact, there was some correspondence which suggested that if an agreement could be reached on the basis of a service level agreement of some sort, then clearly my exercise wouldn't go ahead. But I did get copies of some correspondence to keep me informed, but an instruction to continue with my process until that matter had been resolved one way or another. In the end, I

understand an agreement couldn't be reached, but I was not directly involved in that process.

MR BLACKSTONE: No, fine. Going onto the initial work on the bidders, Mr Davies sent an email to Alan Muir on 13th November: "*Additionally I am posting a copy of the accounts for each submission to you, to be examined by your legal department*" -- I think he probably means accounts department -- "*Neither Roger, Roger nor myself have an in-depth knowledge of auditing accounts, so feel it is best performed by yourselves.*" You have already said you have had a look at the Jersey Bus accounts for the ongoing final year of their operation ----

MR CHILDS: That was the Jersey Bus operating data rather than accounts.

MR BLACKSTONE: Not accounts?

MR CHILDS: No.

MR BLACKSTONE: But, again, although this statement says you are not accountants, you obviously, in assessing the bids, have to do a fair amount of accounting exercise in looking at those and reviewing the figures submitted.

MR CHILDS: Um, in assessing the bids, we are looking at the comprehensiveness and reasonableness of operating costs submissions. The initial process, the expression of interest stage, required operators to submit copies of their latest audited accounts to ensure that they had sufficient financial stability behind them. But that always was to be submitted to the States for their assessment. The same principle applies to in fact the legal work we carried out. I'm not a lawyer. I provide technical advice and, in my initial bid to the States, I made it quite clear that, whilst we would provide technical advice, converting it to a form that was acceptable as a law of the Island would be a matter for the States' legal advisers. So I think it is important in these processes to draw a distinction between technical advice, which I believe we were able to provide, and financial or legal advice, which quite clearly we are not. There are many processes and many jobs which I carry out where I work closely with legal advisers, for example, in public inquiries, and they are two distinct skills.

MR BLACKSTONE: Yes. I very much appreciate you being so forthright about that. Going on with the financial side, the assessment of the bids, there was quite a lot of financial jiggling there possible.

MR CHILDS: Yes.

MR BLACKSTONE: Especially with the non-compliant bids.

MR CHILDS: Yes.

MR BLACKSTONE: Did you consult with the States on this? Did they come into the field at that time?

MR CHILDS: Yes, they did. We were in very frequent contact with Mr Muir during the period immediately following the opening of the bids. The bids were opened on 20th February '02 and we worked in an adjacent office in South Hill at the time. We had requested bids to be not simply a single price but structured in a way that reflected the standard and accepted structure of bus operation costing. We were looking at overhead costs, direct costs, variable costs, semi-variable costs, labour costs, etc., which gave us some guidance as to whether operators had been reasonable on costs and included, in one position or another, all the costs elements. We did in fact raise a number of queries which were eventually settled in the clarification procedure that took place subsequent to the bids being opened and assessed.

One of the bids, one particular aspect of costs concerned us, and that concerned their build up of labour costs. In clarification, it was, I believe, put to this operator that their labour costs seemed competitive, seemed low. I think at that time the individual realised he had made a mistake and sought to correct it. Clearly that was not allowable. The normal procedure when a bidder for anything in a public field realises he has made a mistake, it is that the public sector says "Confirm or withdraw". In fact, for a number of other reasons, this operator was discounted from the five because we had to reduce to three operators to carry forward to the presentation, and in fact the three operators, it was our task to present to the States a recommendation of three operators to perform a "beauty parade" at the presentation before members, for them to make a decision on which operator would be successful. It was our view that of the three that went forward any of them could have performed to the requirements of the States, but this particular operator -- I am giving an example of how we considered financial aspects -- this particular operator caused us great concern on the labour cost element of their bid, which was something like 10% below par. May I add also that we produced our own shadow bid as if we were to act

as a sort of a benchmark.

MR BLACKSTONE: Yes. Now, I don't think Halcrow's experience in the transport field is coming into question at all in these negotiations, but certainly if you have referred to PSD members for accounting adjustments on the bids, then that is of interest.

MR CHILDS: Um, no. Perhaps I could be a bit clearer there. We identified points of concern within the tender bids, areas which we thought needed clarification. As I recall, the most significant element at the time was how operators had treated fuel duty rebate. We wanted to ensure that they hadn't double counted it; in other words, assumed it would be paid and then would put in a claim over and above for it to be paid. That had to be netted off the cost, and it was worth something like a figure of about £80,000 or £90,000 a year springs to mind. It was a very significant amount.

MR BLACKSTONE: So it had been said quite clearly this time -- and I think you have just confirmed that -- there was no question of any negotiation of any of the bids once they had been submitted?

MR CHILDS: Absolutely not, and it was Mr Muir who requested that we had clarification meetings. That is a very different matter. There was no scope for negotiation. That would be quite wrong. The process was very open and operators were kept well informed of any information that emerged as the process evolved on the legal side. In fact, we issued two bulletins. Any question that was asked of us by an operator during the tender process was recorded and the answer given to all operators, the question recorded and then the answer given to all operators. This was done through a letter of clarification in late 2001, but mainly in two bulletins which were issued, one at the end of January 2002 and one a couple of days before tendering closed.

MR BLACKSTONE: 12th February.

MR CHILDS: Before tendering effectively closed, because of course people had to get couriers sorted out to get stuff up to us.

MR BLACKSTONE: Now, the non-compliant bids were obviously non-specific in a number of areas. In fact, Jersey Bus' was extremely non-specific because it had no figures in it.

MR CHILDS: Hmm hmm.

MR BLACKSTONE: But as part of the process of clarification, would you not be able to arrive at a final figure based on what changes in service were non-compliant?

MR CHILDS: There was insufficient information in the Jersey Bus bid to do that. The other non-compliant bids were non-compliant in a number of respects. They were not generally non-compliant in the level of service offered. The two non-compliant bids, one was from Anglian Coaches and their non-compliant bid was simply the compliant bid but with a different type of vehicle. That was, as I recall, the only difference between the two, between their compliant and their non-compliant bid. Southern Vectis put in two non-compliant bids. One was shifting many elements of the risk of running buses on to the States, which we considered ... well, it was contrary to the conditions of contract that we were putting forward, so it really sought a very substantial revision to the conditions of contract. Having discussed that with Mr Muir, that was regarded as unacceptable. The second bid involved a very different framework of services for the Island ----

MR BLACKSTONE: Sorry, if I could just stop you there for a second? Mr Muir said that the non-compliant bid from Southern Vectis was unacceptable?

MR CHILDS: Yes.

MR BLACKSTONE: So you discounted it from then on?

MR CHILDS: Well, we were very concerned about both Southern Vectis non-compliant bids, in that they were so different from what we had envisaged should be the case in terms of conditions of contract that we felt they departed so far from the brief that they shouldn't be considered.

MR BLACKSTONE: But what you just said then implies that Mr Muir had the final word at that stage.

MR CHILDS: Well, we discussed it with Mr Muir, and Mr Muir was aware of the recommendation we were going to make.

MR BLACKSTONE: Hmm hmm.

MR CHILDS: I think it would be wrong to say that Mr Muir had the final word at that stage.

Do you want me to talk about the second Southern Vectis non-compliant bid?

MR BLACKSTONE: Not really, no, thank you. I am more interested in the Jersey Bus non-compliant one. I think they realise now they made a horrible mistake in not costing it throughout, but in their covering correspondence they did refer to a number of matters. They started off by saying that the conditions of the compliant bid would make the tenders very, very expensive; and in fact that turned out that we are now looking at a subsidy of two and a half million a year against something under a million in the Jersey Bus days. But it seems no notice was taken of that suggestion. But they also made specific reference to savings that could have been made and, when Mr Macklin met on 28th February with Jersey Bus, I have his notes here and they say: "*Total year 1 saving of 332K. Year 2 and thereafter 108K plus 324 productivity savings = 432K dependent largely on retention of schools work.*" This does indicate that if those figures had been taken into account, and obviously Mr Macklin took them into account to some extent because his notes of the meeting are comparatively short, but those are specifics ... would you like to see a copy of that to remind you, or have you got that?

MR CHILDS: Um, I've got a copy, but it will save me diving into my file. (**Same handed**)
Thank you.

MR BLACKSTONE: You will see those are fairly short notes -- Mr Lewis's notes of the meeting ran to something like four pages -- but they do specifically state that the non-compliant bid had those savings. If you can put those down on paper, why can you not put them at the top of their compliant bid, deduct those figures and come to a non-compliant bid?

MR CHILDS: Um, that could have been done, but, um, the ... I think there was a lack of comfort that the figures could be achieved. The non-compliant bid was initially very sketchy and really invited a process of negotiation. It was decided that it was not appropriate to go forward with the non-compliant bid because of really the sketchiness of the detail within the proposal. There was no guarantee that these figures would be achieved.

MR BLACKSTONE: There was no guarantee that any of those people could have met their figures, is there?

MR CHILDS: No, none at all.

MR BLACKSTONE: So it would have been possible to have just taken those adjustments, which Mr Macklin noted specifically, and arrive at a lower figure.

MR CHILDS: That could have been done, but then it was a matter of having confidence that the level of service that that lower figure implied was acceptable.

MR BLACKSTONE: Was level of service considered in the other bids, or was it assumed that, all being competent companies, they would all provide ----

MR CHILDS: All the compliant bids were based on a given, a fixed level of service. The non-compliant bids were based on ... As I say, one was based on simply a difference in the type of vehicle to be operated, so the level of service was as per the compliant requirements. Southern Vectis' non-compliant bids were on the basis of the level of service required in one case, but with much of the financial risk being shifted to the States, which was not acceptable, we considered not to be acceptable. The other Southern Vectis non-compliant bid was on the basis of a very substantially rejigged network and substantial changes to traffic circulation in St. Helier itself, so it really was a very, very significant departure from what was sought.

MR BLACKSTONE: Right.

MR CHILDS: And so none of the non-compliant bids, even after the negotiations, the discussions, the clarification that took place, could be offered up as something that would meet the requirements of the States. The purpose of non-compliant bids was that it was our suggestion that they should go for non-compliant bids, on the condition that the compliant bid was also submitted, but I take the view that we don't have a monopoly on bus operating wisdom and that bus operators should be allowed to put forward initiative based proposals and the non-compliant bid process is something which we as consultants face in the consulting room and are often to put a compliant and a non-compliant bid in.

MR BLACKSTONE: Sure.

MR CHILDS: And I felt that it would be good practice in general terms for this exercise.

MR BLACKSTONE: But adjusting those few figures that Mr Macklin put in his notes, Jersey Bus' non-compliant would have been the lowest bid of all.

MR CHILDS: Um, it would have been.

MR BLACKSTONE: Well, I have worked the figures. I'm an accountant.

MR CHILDS: Yes.

MR BLACKSTONE: And yet you still chose to ignore it?

MR CHILDS: We chose not to go forward with it, yes.

MR BLACKSTONE: And did you give any due consideration to the facts stated in Jersey Bus' covering letter to their bid, that the terms of the tender would inevitably make the bids high?

MR CHILDS: We, um, appreciated that the terms of the tender would have an impact on costs. We were looking for a level of operation which was sustainable over a considerable period of time -- seven years, extending to ten on the basis of satisfactory performance.

MR BLACKSTONE: Well, in view of the capital investment, that is not a long term, is it?

MR CHILDS: It is very long term in terms of bus contracts.

MR BLACKSTONE: Is it?

MR CHILDS: Yes. Most bus contracts do not go beyond five years and many bus contracts in the UK, even for substantial operations, are for three years.

MR BLACKSTONE: Now, I have here Mr Cotillard's covering letter to their bids: "*The conditions of tender, in the view of this company and its professional advisers*" -- and I believe they did have a competent bus specialist advising them -- "*are unreasonable. This has made the preparation of an attractive compliant bid impossible. It therefore follows that our compliant bid has had to incorporate costs which, against more reasonable conditions of tender, could have been avoided.*" You didn't consider it worthwhile looking into their contentions in this and ----

MR CHILDS: No, because we devised a level playing field for all bidders. I would accept that our conditions of contract were ... well, there were no conditions of contract, of course, beforehand because quite simply it was a commercial operation by Jersey Bus. I think our conditions of contract were modelled on best practice from the mainland and were very much influenced by the consideration that the States were about to enter a long bus term contract and that we had to protect the interests of the States. There were many elements in the contract, in the conditions of contract, that other contractors for different services in Jersey will be very

familiar with. But, of course, they were modified by the need to consider conditions necessary specifically to support a bus operation -- things like penalty points for failures, etc. So I can fully understand why Mr Cotillard took that view, but they were conditions of contract which needed to be complied with by all bidders so that there was a level playing field.

MR BLACKSTONE: Dropped into the contract en bloc were the 2002 timetables and routes, which were made a condition of contracting. Did you ever enquire as to whether these routes were still feasible or profitable, particularly as some of them had been dropped in 2001?

MR CHILDS: Some were to be dropped in 2001.

MR BLACKSTONE: Were to be dropped, yes.

MR CHILDS: Um, that was a given by the States, that we would base the initial work on an established level of timetable.

MR BLACKSTONE: And you didn't query that at all?

MR CHILDS: It was a given and, no, we didn't. We didn't have any information on the performance of services other than that which had been supplied to us for the specific purpose and I was well aware, of course, that some services were much better than others, but I signed a confidentiality agreement and I quite clearly couldn't reveal any knowledge at all about the performance of services. It was a States' decision handed to me that the initial operations of the new régime should be on the established timetable levels.

MR BLACKSTONE: When you say "*States*", we are looking at three bodies -- the States Assembly, which I don't think gets involved in this level of detail, the Public Services Committee and the Public Services Department. Which do you mean?

MR CHILDS: Well, the Public Services Department presumably, as endorsed by appropriate committees or other bodies. It was a starting point for the new service.

MR BLACKSTONE: Right. You weren't aware, for example, that I think there was a service to a holiday camp which has since been closed down and that was still included?

MR CHILDS: I, um ... no. No, I did not get involved in the detail of individual services.

MR BLACKSTONE: So a slight degree of inflexibility, shall we say, on the part of the States there?

MR CHILDS: That could be an interpretation.

MR BLACKSTONE: Yes. We still try and stick to facts. I apologise. Contracting in general, now I will have to look up the reference to this. It may have been you or it may have been somebody else indicated that it was usual to give an incumbent operator a margin of 5% to 10% preference because they know the existing circumstances.

MR CHILDS: I have never met that.

MR BLACKSTONE: You haven't?

MR CHILDS: It's certainly not the case in the UK. For contracting outside London, which represents 95% of bus expenditure by public authorities in the UK, there are no such preferential arrangements. I was involved in the generation of the guidance on bus service tendering in the UK, in preparing the notes for guidance, and that wasn't an issue that was addressed there.

MR BLACKSTONE: Right.

MR CHILDS: There are some authorities -- Oxfordshire, for example -- who make pre-stated additional payments if an operator complies with disability, offers new disability equipped and designed buses. There is a 20% uplift there, but, again, when bidding for Oxfordshire contracts as an operator you have to submit two bids, one with and one without that feature. That is rather different. That is a specific feature.

MR BLACKSTONE: Yes.

MR CHILDS: In London there are ... some consideration, I think, can be given on repeat tendering, but it wasn't given on the establishment of the current London régime, which compares with the establishment of the Jersey régime. So I have no knowledge whatever of such arrangements being in place.

MR BLACKSTONE: Right. I don't know where I got that from.

MR CHILDS: Right.

MR BLACKSTONE: However, in its formal assessment of the bids, which was a report to PSC, Halcrow included the following statement: "*We are not however convinced that the spirit of co-operation, that is essential to the development of a successful partnership arrangement, exists or is possible between the parties.*" Where did you get that information from?

MR CHILDS: There had been reports of various tensions between the States and the parties.

MR BLACKSTONE: By whom and to whom?

MR CHILDS: By Mr Muir mainly and, um, he, as I recall, suggested that that was taken into account.

MR BLACKSTONE: It is a pretty damning statement based on the report of one civil servant. Did you check it out elsewhere?

MR CHILDS: No, no, I didn't. It was from someone who was very senior in the Public Services Department.

MR BLACKSTONE: Looking at it another way, it could virtually say "Regardless of what figures these guys put in, don't go near them, we can't deal with them."

MR CHILDS: That would be, I think, an excessive interpretation.

MR BLACKSTONE: Well, if that comes up for a States Committee, are they going to take the risk of dealing with somebody when you, on the basis of hearsay from one civil servant, include that remark in your final assessment?

MR CHILDS: I ... that is an interpretation. I think the ----

MR BLACKSTONE: What other light can you put on it?

MR CHILDS: (No response)

MR BLACKSTONE: "... *not ... convinced that the spirit of co-operation ... exists or is possible*". "Don't go near these guys" is what you are saying, isn't it?

MR CHILDS: That's how you interpret it.

MR BLACKSTONE: That's how I interpret it, yes. Could you interpret it any other way?

MR CHILDS: Um, I can't comment on that.

MR BLACKSTONE: Well, I'm just asking you if it is a reasonable interpretation. Otherwise ---
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MR CHILDS: That's an interpretation.

MR BLACKSTONE: Yes. I think it is a clear statement. The bids were opened in Jersey on 18th February '02. Who was present?

MR CHILDS: Er, 20th February, I believe.

MR BLACKSTONE: Okay. Sorry, 18th was the final date, wasn't it?

MR CHILDS: Yes. Myself, Mr Macklin, Mr Muir, I think Mr Richardson and, um, a number of other officers. I didn't note who they were at the time.

MR BLACKSTONE: Did you have any discussions/consultations with these people at that time or at any other time before you wrote your assessment of the bids?

MR CHILDS: Which assessment, the first or the second assessment?

MR BLACKSTONE: Either or both.

MR CHILDS: Um, with Mr Muir mainly.

MR BLACKSTONE: And in these discussions, did he indicate the same bias against Jersey Bus that he indicated in the statement I read earlier?

MR CHILDS: We were made generally aware of concerns about the relationship between the States and Jersey Bus.

MR BLACKSTONE: By Mr Muir?

MR CHILDS: By Mr Muir, yes.

MR BLACKSTONE: Anybody else? Did Mr Richardson make any comments?

MR CHILDS: I don't recall Mr Richardson making any comments.

MR BLACKSTONE: In connection with the tendering process, did you meet any of the politicians involved either in the Bus Strategy Steering Group or in the Public Services Committee?

MR CHILDS: Um, er, during the course of the tendering process I didn't meet any informally, in other words, in only one council meeting at the States formally. I only met them through presentations to the Bus Strategy Steering Group.

MR BLACKSTONE: Hmm hmm.

MR CHILDS: Or other committees.

MR BLACKSTONE: We will go on to later dates. Halcrow continued to work with PSD and for PSD after the award of the contract, did they not?

MR CHILDS: Yes, on the basis of as and when required rather than through a formal commission with a detailed work methodology.

MR BLACKSTONE: In fact, I think you were closely involved in the preparation of the contract with Connex?

MR CHILDS: With the revisions of the conditions of contract, not closely involved. I responded to requests from the States for input as and when required. Increasingly from March '02 Mr Muir and Mr Collier took over negotiations or relationships with Connex.

MR BLACKSTONE: Now, you say there were revisions made from the original contract terms in the tender and the actual contract terms agreed with Connex.

MR CHILDS: The conditions of contract were placed before Connex's legal people and there was a debate, a toing and froing, between France and Jersey on the conditions of contract. At one point in July 2003 -- sorry, 2002 -- I was required to ask to prepare a response on revisions to the conditions of contract. I will turn it up. Yes, 28th July 2002, I produced a technical note relating to revisions to the conditions of contract with a document and a particular reference which I received electronically on 24th July. I responded on the 28th, giving my advice on changes which Connex wished to make to various conditions of contract, or wished to see made to various conditions of contract. I gave my response in this technical note. I believe you have that.

MR BLACKSTONE: Was that submitted to us?

MR CHILDS: It was certainly submitted to the States.

MR BLACKSTONE: No, to the Committee of Inquiry, I mean?

MR CHILDS: Er, no. It's here if you want to take a copy of it.

MR BLACKSTONE: I think we had better have photocopies of those, please, yes.

MR CHILDS: And one of the key elements was a definition of *force majeure*, if there had been a strike, for example. I gave my views on that and I think, to summarise, I was concerned that Connex were seeking significant changes which watered down the ability of the States to seek compensation or other recompense if they failed to perform.

MR BLACKSTONE: Hmm hmm.

MR CHILDS: And I think you put to me earlier that conditions of contract were tough, and I would regard that as a compliment in one sense rather than a criticism, but, after that, there was a

further revision to the conditions of contract. I wasn't involved again in the conditions of contract debate. That was purely between officers of the States and Connex.

MR BLACKSTONE: Right. One of these conditions changes, I believe, was that in the original contract there was the option for the States to pull out at 26 weeks' notice if they ran out of funds.

MR CHILDS: Hmm hmm.

MR BLACKSTONE: That was dropped from the final contract with Connex.

MR CHILDS: Yes. I cannot comment on why that was the case.

MR BLACKSTONE: But it was. You can confirm that it was?

MR CHILDS: I understand that it was, yes.

MR BLACKSTONE: Jersey Bus have indicated that they put in a contingency sum in their contract to allow for the event of a short term contract and in the event that they had made a major investment in new equipment, which they were required to do. Do you think it is fair that Connex should then be allowed to contract out of that? We are getting away from the level playing field.

MR CHILDS: It was not something I was asked to comment on. I have no direct knowledge of that having taken place.

MR BLACKSTONE: No, I am asking you that now.

MR CHILDS: Looking at it from Jersey Bus' point of view, I could understand why they would want to take that point of view. I am not going to comment on whether it is fair or not, but, as I say, I can understand Jersey Bus raising it from their point of view.

MR BLACKSTONE: But it is rather moving away from the level playing field, isn't it, that once Connex have come in with a low figure and got the contract, they then negotiate out some of the more onerous terms of the contract?

MR CHILDS: Well, um, that's not something I was involved in.

MR BLACKSTONE: I wasn't asking you whether you were involved; I was asking whether that is a fact.

MR CHILDS: Well, if ... I'm just taking it as a piece of information from yourself and

obviously I haven't checked it out, but it must be a fact, it must be something which you have been informed.

MR BLACKSTONE: It can assure you that is a fact, and it is just rather getting away from the same level playing field concept that you quote for one thing and then you say "Oh no, we don't want to do that."

MR CHILDS: No, I didn't say we didn't want to do that.

MR BLACKSTONE: No, Connex said they didn't want to do that. One other thing about the level playing field. I believe Jersey Bus were told that they were to quote for 40 seater buses.

MR CHILDS: Could you repeat that, please?

MR BLACKSTONE: Jersey were told that their quote had to include the provision of 40 seater buses.

MR CHILDS: We didn't specify seating capacity. We required all operators to take account of operating conditions on the Island in submitting their bids and to ensure that sufficient capacity was provided to meet all reasonable contingencies. We also made operators aware in the briefing process that considerable numbers of duplicate buses, additional buses, were operated at certain times, for example in the holiday season, which were the peaks. This was a feature which Jersey Bus had made me aware of and I recognised that is why they operated flexibly. It was a duty and an onerous one placed on tenderers to inform themselves of the need to meet these requirements. Indeed, in the build up period to the submission of the tenders operators had the opportunity to come and look at what happened in Jersey in the winter months when peak demand was probably at its highest to see what happened there, and they were made aware of the need to provide summer duplicate operations on a much more random basis -- this was weather-dependent, quite frankly -- with their summer season operation for 14 weeks or so.

MR BLACKSTONE: Now, just going back to Mr Lewis's notes of that meeting of 28th February with Mr Macklin, it doesn't appear in Mr Macklin's notes, funnily enough: "*RM also said all bids based on 40 seaters and from day one mainly new buses. States and consultants said 40 seaters are a requirement.*"

MR CHILDS: Um, no, you must ask Mr Macklin about that.

MR BLACKSTONE: I will.

MR CHILDS: But that, in my view, is a misinterpretation or a ... let us say a misinterpretation.

Um, we were quite clear in our conditions of contract that we wouldn't specify capacity, but we placed the onus on the operators to check, to make sure they supplied sufficient capacity, but that was because, quite simply, we didn't have any data on the performance of services. We knew full well that there were big duplicates. We had been to the Island enough and observed operations ourselves, but we had no hard and fast information and we were relying on the expertise and judgment of operators to take this indication on board and react to it accordingly.

MR BLACKSTONE: Yes.

MR CHILDS: But we didn't specify capacity and I am most surprised that that record of the meeting contains that, because I have Mr Macklin's notes of the meeting, which are generally very thorough of meetings, and this wasn't raised.

MR BLACKSTONE: No, I said that earlier. I think Mr Macklin's notes are just under a page and Mr Lewis's are about four pages.

MR CHILDS: Yes, and we didn't receive Mr Lewis's notes of the meeting until after issues had been raised which are peculiar to this Inquiry.

MR BLACKSTONE: Hmm hmm.

MR CHILDS: There is no reason why we should, of course. They were Mr Lewis's notes of the meeting.

MR BLACKSTONE: No. Of course, in the tender documents, as you were just touching on the subject of reliefs, it was stated quite clearly that it was up to the contractor to inform himself fully of the local operating conditions.

MR CHILDS: Absolutely.

MR BLACKSTONE: No excuses, no come back.

MR CHILDS: No, none at all.

MR BLACKSTONE: No, right.

MR CHILDS: I would add that we were dealing with quite an unusual situation in which, from their point of view, totally reasonably, the incumbent operator would be quite unwilling to reveal

commercially sensitive data to a potential rival.

MR BLACKSTONE: Would you?

MR CHILDS: No, it was entirely reasonable, but most unusual though because, in most situations, in the London situation which applied in the early nineties when they moved from vehicles owned by London Transport to vehicles contracted into London Transport by operators, of course London Transport held and made available all the performance data.

MR BLACKSTONE: Right.

MR CHILDS: But we were dealing with a unique situation here.

MR BLACKSTONE: You are obviously aware of the details of the Transport and General Workers' Union 2002 pay claim? There were two aspects: (1) 4½% across the board, and (2) £72 shift allowance

MR CHILDS: Yes. Well, there were a number of other respects, but they were the two ----

MR BLACKSTONE: Those were the two main ones, yes.

MR CHILDS: Yes.

MR BLACKSTONE: Quoting from Connex's tender documents: "*Included in our costs is the assumption that the wage claim of the present Jersey Bus staff is met in full. We would be prepared to discuss a reduction in the staff costs directly applicable to the present staff should the claim be settled at a lower level.*" Elsewhere they say "*Wage costs included the payment in full of the 2002 wage award.*" Anything ambiguous about those statements? **(Pause)** Would you like me to repeat them?

MR CHILDS: No, no, I have got them here. Um, it's um ... it would depend on how you interpret "*in full*" because, of course, the information made available to the operators at the time of tendering was that this was a bid by the TGWU on their employer, Jersey Bus.

MR BLACKSTONE: A claim.

MR CHILDS: Yes.

MR BLACKSTONE: It was a wage claim.

MR CHILDS: It wasn't settled.

MR BLACKSTONE: No.

MR CHILDS: And there was a process we went through. We were informed very late in the day directly by the TGWU that this was the pay claim. In fact, it came in on 12th February to us by fax from Jersey Bus. **(Pause)** Jersey Bus informed us at the time on 12th February that they *“cannot predict a final agreement. For tender purposes, we have budgeted a 4.5% increase from March 2002 and a further increase of 5% from March 2003.”* With that letter from Mr Cotillard was a copy of the TGWU pay claim dated 6th February to Mr Lewis, Mr Chris Lewis, and that included these two factors. So we very late in the day made all tenderers aware and the States aware of this claim.

MR BLACKSTONE: I believe on the same day you in fact sent emails out to all the tenderers.

MR CHILDS: We faxed and emailed all tenderers and we even asked for confirmation that they had received it as well. I think in fact only one did actually confirm, but it was ... we were about to produce the last bulletin issued on that day and we attached it to the last bulletin. In fact, our covering letter to the last bulletin refers to this inclusion, this enclosure.

MR BLACKSTONE: Did you notify the Public Services Department?

MR CHILDS: Yes.

MR BLACKSTONE: How?

MR CHILDS: They were copied in on the bulletin which was issued to operators. They were copied in on all things. In addition, when we came over to the States with the sealed envelopes to open the tenders a week or so later, we brought with us three brown envelopes -- sorry, that has the wrong connotation, doesn't it?

MR BLACKSTONE: I like it.

MR CHILDS: We brought with us three brown envelopes, a copy of which we have got here, each containing a complete set of tender documents from the initial advertisement which appeared in the trade press through to the final bulletin, including a copy of the Jersey Bus letter and the TGWU claim, and they were left in the room. One of the officers of the States was made aware. I recall, but I didn't make notes of, having discussions with Mr Muir about the claim itself. So, in my view ----

MR BLACKSTONE: You had discussions with Mr Muir about the claim?

MR CHILDS: Well, I did not ... these were en passant. These weren't ones which I made file notes of the discussions, but inevitably in discussing the whole issue with Mr Muir on a daily basis, these sorts of things were raised. It was, um ... The shift allowance was quite an unusual feature in terms of an element of a wage claim, that it would increase the pay on average by something like a further 22%. It was an interesting and unusual feature of a pay claim at that time during the time this process was going on. So it was something that was the topic of conversation inevitably, and we certainly did make the States aware both formally through copies and I recall, but I have no ... it is a recollection that it was discussed in very general terms.

MR BLACKSTONE: So, just going back again to PSD, they were copied on the bulletin, by fax?

MR CHILDS: They were faxed and my colleague, Mr Davies, scanned -- the technology is beyond me, frankly -- but he scanned and emailed the Jersey Bus and the TGWU letter of pay claim, the one dated 6th Feb '02. I think we even telephoned to make sure someone had received it. I think one of our secretaries did that. It was so important. We felt that it was so important that operators were made aware of this development, even though it was a claim and not an agreed award as such.

MR BLACKSTONE: This is an absolutely critical point, as you probably realise. So the TGWU letter was faxed and emailed to PSD on 12th February?

MR CHILDS: I don't know whether it was emailed and faxed to PSD. It was certainly posted to PSD on that date.

MR BLACKSTONE: Sorry, I thought you just said it was ----

MR CHILDS: No, it was faxed and emailed to all bidders.

MR BLACKSTONE: Right and your secretary phoned them?

MR CHILDS: They were contacted to make sure that they had received it. They were asked for an indication that they had received it.

MR BLACKSTONE: But not necessarily PSD?

MR CHILDS: No, no. No, they were copied in with the letters that were posted on the 12th.

MR BLACKSTONE: So PSD got a letter but not fax or email possibly?

MR CHILDS: I'm pretty certain they didn't get a fax or email. It really was a matter of ensuring that the operators were aware because PSD weren't a bidder. It was a matter of ensuring that the operators were fully aware of this late development.

MR BLACKSTONE: Hmm hmm. But included in the documents that were presented at the tender opening meeting on 18th February ----

MR CHILDS: The 20th.

MR BLACKSTONE: The 20th -- I beg your pardon again -- those documents, including the TWGU claim, were tabled.

MR CHILDS: We handed over ... I may have passed them to Mr Collier, I can't remember, but we had a pile of envelopes which were the tenders and three complete sets of tender documentation.

MR BLACKSTONE: *Bulletin 1, 2* and ----

MR CHILDS: Well, right from the very first advertisement, all the advice that had been given, each of the briefing packs that had gone to operators, a complete set, including the second bulletin with this attachment to it.

MR BLACKSTONE: Right, and the shift allowance, you say, you had discussed with Mr Muir round about this time?

MR CHILDS: Yes, in general terms, yes.

MR BLACKSTONE: £72 per shift.

MR CHILDS: £72 per week.

MR BLACKSTONE: Per week, yes, discussed with Mr Muir not infrequently?

MR CHILDS: Um, I recall general discussions with Mr Muir about a whole range of things and I'm pretty certain that this one of the things.

MR BLACKSTONE: Certain or pretty certain?

MR CHILDS: Pretty certain. I can't be absolutely certain. This was three years ago, four years ago, three years ago. It wasn't something which I documented as a note of a meeting. It was probably informally walking between one meeting or another.

MR BLACKSTONE: Right.

MR CHILDS: You know how these things are.

MR BLACKSTONE: But, in all the circumstances, you are pretty sure that Mr Muir knew about this in February?

MR CHILDS: Yes, yes. Or I'm certain that the States, that the PSD had a copy, let's put it that way. I can't account for, you know, internal mail movements within PSD.

MR BLACKSTONE: Thank you. That is a very useful clarification. **(Pause)** Now we look at the tender documents: "*Contractor to inform himself fully*"; we look at *Bulletin 2*, which included the TGWU allowance; we look at Connex's tender terms, which I have read out to you extracts from concerning the wage claim. In view of that, do you consider that Connex has any right to an additional payment on the grounds that they were not aware of the shift allowance?

MR CHILDS: Um, on the face of it, it would appear not, but I was presented with a situation later on in 2002 in which they were adamant that they hadn't included this element in their original bid and it was a matter for ----

MR BLACKSTONE: Sorry, can I just stop you there?

MR CHILDS: Hmm.

MR BLACKSTONE: I think you said earlier that you had made it quite clear to the tenderers that they should include this in their bids?

MR CHILDS: No, no, no, not at all, no, no. I ... it ... we ... that would not have been a level playing field. We made tenderers aware of the claim and asked them to treat it as they saw fit. It was a claim. Um, and my interpretation of it at the time is that it was a most unusual element of the claim. Um, operators in general, bus operation isn't a highly profitable business, in the sense that you may argue consultancy is or something like that. But ... and my reaction, my private reaction -- this is my private reaction and it found no way out to operators because that would have been most unreasonable -- was that this was a most unusual claim. Why would an operator that clearly -- this is my own thinking -- that clearly was not in some financial difficulty but had been requesting some financial assistance with poorly performing routes, um, not only award a 4.5% pay increase, which we knew about and which we had known about for some time and

which Jersey Bus clearly state was in their bid, but then go for another increase in pay which amounted to something like 22% over and above the 4.5%?

MR BLACKSTONE: I presume you are aware of the background of the shift allowance claim?

MR CHILDS: I am aware of what is here, yes, yes.

MR BLACKSTONE: No, the fact that it was to compensate for the possible loss of the school contracts and the overtime involved?

MR CHILDS: That's what's stated in the correspondence.

MR BLACKSTONE: It is in the covering letter?

MR CHILDS: Oh yes, but ----

MR BLACKSTONE: It is still unusual though, yes.

MR CHILDS: It is most unusual under any circumstances, those included, in my view. My own view was that ... in fact, I didn't put it my shadow bid because I thought it was something which probably wouldn't go through. It isn't something that an operator, faced with an ongoing business, would invite upon themselves, loss of school work or not. But I didn't communicate that to anyone. It would have been most unreasonable to communicate that to anyone because it would not have been a level playing field. It was for them to interpret the information, which was given fully, not for me to comment on how they should interpret it, but that was the case with all information, and you have drawn the parallel with the capacity issue and the peak with the wrong size of bus. It was for them to inform themselves and this was another piece of information, just like the information on Jersey employment law, fuel duty rebate and so on, on which they should base their bid. Our fuss at the time was because it came to us so late in the process and operators had to know.

MR BLACKSTONE: They still knew and they still said they had put it in their bid.

MR CHILDS: Um, it depends how you interpret that statement in the bid itself. I agree it does appear unequivocal.

MR BLACKSTONE: It is absolutely specific ----

MR CHILDS: But they ----

MR BLACKSTONE: You know: "If the bid is not settled in full, we will consider cutting our

bid.” I mean “If the claim is not settled in full, we will consider cutting our bid.” So they knew that the claim was still under negotiation; they have said so.

MR CHILDS: Well ----

MR BLACKSTONE: And they knew what was in the claim, you had given it to them.

MR CHILDS: Hmm. Certainly they had the information, yes, that it was a claim and not an agreement. I don’t know. We were not even informed when, when the settlement was made.

MR BLACKSTONE: Going back, Mr Childs, to the fact that a contractor must inform himself of the conditions of the contract and the statement by Connex of what they have included in their bid, are they really entitled to any other payment in respect of the shift allowance subsequently?

MR CHILDS: On the face of what’s in there, probably not.

MR BLACKSTONE: These are hard facts. We are dealing with business not love. Are they entitled to any further payment?

MR CHILDS: Um, on the basis of what is within this statement, probably not, but ----

MR BLACKSTONE: What is the “*but*”?

MR CHILDS: But the debate was raised again later in the year ----

MR BLACKSTONE: I am aware of that.

MR CHILDS: ---- when it was claimed by Connex that they had not included this factor.

MR BLACKSTONE: How on earth can they claim that when they have said they have?

MR CHILDS: But it doesn’t list specifically the elements there, does it?

MR BLACKSTONE: It says “*the 2002 pay claim, assuming it is met in full*”. They had seen the claim. They assume it is going to be met in full and they have included those costs. Why should they later on come back and say “Oh we’re terribly sorry, we want more money”?

MR CHILDS: Well, I can’t account for the way they think, but the fact is that the debate was opened again later in 2002.

MR BLACKSTONE: And you were involved?

MR CHILDS: Yes.

MR BLACKSTONE: Would you like to tell us all about that?

MR CHILDS: Well, I ... um ... I was made aware of this concern in, um, late in 2002. I

attended a meeting ... there were two points of dispute. One was the ongoing issue of the peak vehicles and the other was indeed the 100 and or 213,000 or thereabouts costs of the shift allowance. In November 2002 -- I'm just looking for a note here -- I attended a meeting. Sorry, in December 2002, I attended a meeting here in Jersey. I was called over to a meeting with the States and Connex. I think it took place at Connex's offices at La Collette. We went through ... they put to us their case for payments on both factors, the peak vehicle supplementation and the shift allowance. It was ... I was adamant and quite clear that the level of service issue, the vehicle capacity issue, was one which they had to meet. They were insistent. There had been a debate between Connex and officers of the States before my involvement in this particular issue. They were insistent that they hadn't included the shift allowance payment in their bid, just as Jersey Bus hadn't. I think certainly if you go to the Dunn-Line bid, for example ----

MR BLACKSTONE: I think the Jersey Bus bid did include it.

MR CHILDS: Well, it says in their letter that they weren't going to include it. That was my interpretation of the bid. I don't think there was a definitive statement in the bid.

MR BLACKSTONE: I will have to recheck back on that point.

MR CHILDS: But there is ... their letter covered the TGWU claim letter and it made it quite clear that they weren't going to include it in the bid. Sorry, let me continue. Um, I had been asked to comment on whether it was reasonable on the assumption that Connex hadn't included it in their bid and we did not keep copies of the tender bids. Our job, other than being called back for various pieces of call-off was completed in March 2002, when we handed over an assessed set of tender documents to the States with our assessment reports and recommendations. After that time, as I explained, I was involved to an extent, but there were many, many meetings between Connex and officers of the States in which we had no involvement whatsoever.

MR BLACKSTONE: Sure.

MR CHILDS: And if you look at our timesheets -- I don't have the analysis with me -- of time spent on this project after about March 2002, our time fell away, as quite reasonably it should because we had done our main task, which was managing the process of tendering on behalf of

the States. But I was asked on the reasonableness of it, and I in fact produced a note of a meeting with Connex on 3rd April 2003, because the issue had rumbled on since December 2002, which gave my views on the reasonableness or otherwise of these two claims by Connex. Do you have a copy of that?

MR BLACKSTONE: I have a copy of that somewhere, yes. I can't locate it at this second, but I thought ----

MR CHILDS: It is 3rd April 2003.

MR BLACKSTONE: Yes, I have that one.

MR CHILDS: And my advice was that we couldn't recommend that the cost of peak supplementation was met, because the onus was clearly placed with Connex to assure themselves of the requirements. But the shift allowance, on the assumption that it hadn't been included -- and I hear what you say in asking me for an interpretation of the statement in the bid -- it was reasonable to make an additional cost. So I actually recommended, on the assumption that it hadn't been included, it was reasonable to meet this. The report itself was further qualified though, because it was required to be indicated to Connex that the States hadn't a completely open pot of money and, beyond payment for the 2002/3 year, funding wouldn't be available to meet any uplift to the shift allowance beyond the first.

MR BLACKSTONE: But they were going to be allowed to cut routes without penalty points to compensate?

MR CHILDS: Cutting routes was not a subject for penalty points. Cutting routes was ----

MR BLACKSTONE: Or a financial adjustment.

MR CHILDS: ---- subject to negotiation between the States and their operator. There would be a process of consideration. In fact, earlier in the process, we also provided some guidance on what would be major or minor service changes, which the States would or not need to refer to a wider process of consultation. But it was between the States and Connex, the contractor, to decide how to deal with services from that point on. In fact, we were re-engaged later in 2003 -- Mr Davies was the main person -- to look at the service level implications of a variety of options for changing the service network.

But the award of the contract to Connex, Connex made a great play in their bid about development of the service, the introduction of what are called demand responsive small buses for low areas of demand on the Island and other changes in the service. But I think the Committee that considered the presentations were influenced by what was the promise at the time of Connex bringing their considerable -- and it is considerable -- bus operating expertise to bear on the Island in rationalising services, improving services. But I was asked as to the reasonableness of this and my recommendation was based on the assumption that they hadn't included this in their bid.

MR BLACKSTONE: In your report of 3rd April, you only comment on the first year of £186,000.

MR CHILDS: Hmm.

MR BLACKSTONE: You don't comment on claims for subsequent years, which I believe -- and I will investigate -- were met by service cuts. Now, I want to come back, Mr Childs -- I am slightly bias, I am a Jersey taxpayer -- why on earth when all these circumstances had been explained to you did you recommend that the States of Jersey fork out another £186,000 to Connex? They have said "Oh, we're so poor, we forgot to put this in our tender." You have got the duty to inform themselves; the documents were supplied to them; the pay claim was supplied to them in full, so how can they deny it?

MR CHILDS: I can't ... I was asked to comment on a situation in which the assumption was made that they hadn't included it. I can't comment on their thought processes that would have --

MR BLACKSTONE: Well, the next question, Mr Childs, is very obviously how on earth can you recommend it?

MR CHILDS: It was recommended on the assumption that they hadn't included it.

MR BLACKSTONE: But you don't say that.

MR CHILDS: No, I don't say that, but ... hindsight is a wonderful thing, perhaps I should have said that, but ----

MR BLACKSTONE: But is it not apparent from what I have read out to you this morning from

their tender that they did include it? They said they included it.

MR CHILDS: That is how that could be interpreted. I didn't ----

MR BLACKSTONE: No, it is not interpretation. This is fact.

MR CHILDS: Well, that is what it says.

MR BLACKSTONE: Shall I read it to you again? **(Pause)** *“Included in our costs” -- “included in our costs” -- “is the assumption that the wage claim of the present Jersey Bus staff is met in full.”* Is that interpretable or is that a plain statement of fact?

MR CHILDS: Well, I guess it's a statement of fact.

MR BLACKSTONE: Thank you very much. I have no further questions.

MR GARRETT: Before going on to my questions, can I take you back on a couple of the answers you gave my colleague? You mentioned about when the Jersey Bus non-compliant bid was rejected. You used the phrase *“it was decided”*. Can you tell me who decided? Was that a dictat from Alan Muir, or did you decide that it was not up to the mark?

MR CHILDS: We decided. It was ... the States were relying on our professional judgment. Clearly we take into account guidance that we receive or matters that we interpret from the discussions, which were considerable, that we had with officers of the States.

MR GARRETT: Fine, so you made that decision?

MR CHILDS: Yes.

MR GARRETT: You also commented on the length of contract that was on offer early.

MR CHILDS: Yes.

MR GARRETT: Seven to ten years.

MR CHILDS: Yes.

MR GARRETT: And you compared that against the situation, the normal in the UK, which is a substantially lesser period.

MR CHILDS: Hmm hmm.

MR GARRETT: Do you know who decided that there should be such a long contract in Jersey?

MR CHILDS: There was an inclination to go for a longer contract. We recommended that there should be a longer contract, to give operators the opportunity to invest. We are not looking at a

situation in which operators were enabled to ... would necessarily be able to tack Jersey on as an adjunct to a larger UK operation. You know, we're an island. It's ... we thought it most appropriate to give the operator an opportunity to invest.

I would also draw your attention to a condition that in fact we were looking for an average vehicle fleet age of, I think it was, 10 years in the conditions of contract. In fact, as the contract conditions stood, Jersey Bus would have just about complied with that with their core fleet of not new vehicles but rather younger vehicles. We didn't ... we talked for a long time about whether we should include a new vehicle fleet, implying that they would all be low floor, because that is what was produced or has been produced in the last few years, which would aid access and so on. We decided against that because, well, I guess we were conscious that the incumbent operator had a lot of experience in operating on the Island and should be given a ... their experience ought to be considered in a bid and if we made the conditions of contract so onerous in terms of the start up costs and the fleet, it would make it more difficult, as our interpretation, for Jersey Bus to be able to respond.

We were of the view that they should certainly ... we should be looking for an enhanced service for Jersey and in service ... and in terms of the effort put into service or network revision, but that it was ... that that condition shouldn't be so onerous as to make it very difficult for smaller operators generally to bid because we were aware that there was interest from quite a range. We had 29 expressions of interest initially back in October/November '01. There was a lot of interest and many of those were from Stagecoach and very large groups like that, also down to Anglian Coaches, who in fact submitted a bid, and Dunn-Line, who were relatively small operators, but there were some smaller than that, Hedingham Omnibus, for example. So we were using our judgment of the situation in Jersey in coming up with what we thought was a reasonable set of conditions.

MR GARRETT: Okay. Can I just go back again to those dreaded brown envelopes? Can you confirm that you left that material in Jersey with Public Services?

MR CHILDS: We left them ... we made an officer of the States aware ----

MR GARRETT: That officer being?

MR CHILDS: It was either Mr Collier or Mr Muir. I, frankly, can't remember. And we left three envelopes -- I've got a fourth one here -- in the room in which we opened the tenders. I can certainly remember being as keen as possible to get rid of them because, you know, with a pile of envelopes **that** size, they are a ton weight.

MR GARRETT: And you left them with the Public Services Department?

MR CHILDS: Yes. We didn't formally hand them over because they didn't form part of the tendering procedure, but they were there for information.

MR GARRETT: Can you confirm that, in that bundle of papers, there was a copy of the Transport and General Workers' Union letter?

MR CHILDS: Yes.

MR GARRETT: So really either prior to or at the time that the tenders were opened, you can be 100% convinced that that material was in the possession of the Public Services Department?

MR CHILDS: It had also been posted a few days earlier to PSD.

MR GARRETT: However, they will claim that they didn't receive it. I will come on to that a little later, but ----

MR CHILDS: I can't say ... I can't hold my hand up and say "I'm sure I know we didn't forget to attach it", but they are pretty good. I could not say 100% for those reasons, but it was our intention to make sure that they had this vital piece of information, very important, very late in the day piece of information.

MR GARRETT: Okay, thank you. Can I, in the first instance, point out that my colleague and I have been working slightly separately. Although we are jointly involved in this Committee, we have been drafting questions as or following each development each day as sort of new evidence has appeared before us. In fact, we were both working last night and early this morning and we have not really had a chance to compare notes, so there is some overlap.

MR CHILDS: That is no problem.

MR GARRETT: And I apologise for that. It is also the case that I come to things on a slightly different angle, so bear with me. Can you tell me -- I might have missed it -- how long have you actually worked for Halcrow?

MR CHILDS: I started work in July 1990.

MR GARRETT: Fine. What kind of qualifications have you got in terms of bus-related business?

MR CHILDS: I'm ... I've got a degree in Urban and Regional Planning. I'm a member of the Royal Town Planning Institute. Until it became a professional association primarily for the haulage industry, I was a member of the Chartered Institute of Haulage and Transport. Since 1973, I have worked as a transport planner for a wide variety or a variety of authorities. I started with Nottingham City Council, where I looked at pedestrianisation and bus service circulation as a result of that, as a very junior member of staff, of course, as a graduate. In the mid-seventies, I moved to Nottingham County Council as a member of their public transport team, looking after tenders and service development, particularly park and ride. In 1985, I was seconded as a member of research staff to an MP, a Derbyshire MP as it happened, called Matthew Parris, to work in Westminster providing advice to a group of politicians who were ... it was a Select Committee considering aspects of what became the Transport Act 1985 in England, well, in the UK, and providing bits of guidance for people, to politicians, who were seeking amendments to various processes there. As a result, I was also co-opted to a group which advised the Department, the Transport Department -- sorry the Ministry of Transport, Department of Transport at the time -- on the drafting of guidance which supported the regulations for bus service tendering in the UK. I became the most senior public transport person at Nottinghamshire in 1985 and worked on that for five years in every aspect, before joining Halcrow in July 1990, essentially doing a very similar job, but for a wide range of clients. So I am a chartered planner by trade, but I'm steeped throughout my career in transport, public transport and buses in particular.

MR GARRETT: Thank you. In the first instance, can I just explore with you the circumstances under which you were appointed? I know you touched on this previously. Was there any kind of sort of competitive tendering process that went on, or were you just, because you had been working with Alan Muir or working with Public Services, you were approached and you got the job?

MR CHILDS: I understand Mr Muir ... I don't know. I wasn't involved in a formal competitive tendering process. I understand Mr Muir -- you will have to confirm this with him -- did actually speak to one or two of our competitors on the same basis, but we were awarded the job.

MR GARRETT: Do you see the project as being fixed term or is it slightly more sort of opened ended?

MR CHILDS: It could have been very short. Our recommendations on the broad process, which was a very small fee job initially, could have foundered and, had Jersey Bus, for example, entered a service level agreement for five years, but that was a matter being handled by the States. At that point, they hadn't reached a successful conclusion and we were engaged to go through the process I had outlined could be gone through when I made my original bid to them, to the States. At that point, we were engaged. There was no formal time span for the project identified, but we were engaged in essence until the successful operator had been delivered to the States. That happened to be February/March '02. Then we were engaged on a piecemeal, a call-off, basis, from then on to tackle certain specific elements of the project. I mentioned one or two. I mentioned the consultation, for example, on the negotiations that were going on between the States and Connex on the conditions of contract. I produced a paper in July '03 on that.

MR GARRETT: Okay. Can I just clarify with you, was there any kind of contract, even a sort of generic kind of contract?

MR CHILDS: No. There was an initial order which had backing it my original technical note of submission, but, beyond that ... and this is a matter for the States. We simply respond to what a potential client or a client puts in front of us. Some clients have very, very formal procedures for engagement variations and so on; others quite simply don't, and that varies even in the public sector. But we responded then to a series of email instructions from Mr Muir. I think I provided a broad indication at one stage of the likely scale of fees, but, quite frankly, that was an evolving situation, which is not uncommon for situations like this, because you have a professional body of officers carrying out a piece of work and consultants and, frankly, given the time, in most cases or in some cases, officers are quite capable of doing the work we do but they don't have the time. I am engaged at present by Warwickshire County Council on exactly that basis for a

type of support. So our instructions came in the form of letters, but mainly email communications, from Mr Muir from time to time.

MR GARRETT: Okay. When you had been appointed, who did you report to? Did you report to the Committee, the Department or both?

MR CHILDS: I reported to the Department. Many of my reports were documents which could become reports to the Committee, but my day to day liaison was with the Department. There was very, very close involvement with members of certainly the Bus Strategy Committee and I addressed them on a number of occasions, but always by invitation by an officer of the department.

MR GARRETT: And your point of contact generally was Alan Muir?

MR CHILDS: Yes.

MR GARRETT: Moving forwards, during my research, I know there are comments which indicated there was dissatisfaction with the performance of Jersey Bus and, indeed, some opposition from politicians. I know you touched on it before that you became aware of the discontent, but did you receive a briefing at the outset advising you of that dissatisfaction? Was it given to you at the outset?

MR CHILDS: Yes.

MR GARRETT: Now, who gave you that information?

MR CHILDS: An early phone call with Simon Crowcroft from him to me made me aware of the general dissatisfaction and there was a general level of frustration, I think it was said, that came across in the discussions I had with officers with what they saw as the lack of perhaps imagination and co-operation from Jersey Bus. It was ... I suppose it was a colour really over their descriptions of dealings with Jersey Bus.

MR GARRETT: Can I seize on that word? Would that have coloured ... I am not trying to criticise you, but consciously or otherwise, do you think that was likely to colour your judgment, your view on Jersey Bus?

MR CHILDS: Um ----

MR GARRETT: Or could it have done?

MR CHILDS: It could have done. I dealt with Jersey Bus directly in a number of meetings just to do with the negotiations over the interim support in 2001 and I think we got along very well. I found them quite easy to deal with, but I understood the general tenor of the criticism that Jersey Bus were not developing public transport on the Island, but I also remember discussions with Mr Muir saying "I think they should be given the chance". But that was a matter for the States and there was this offer made in the middle of 2001 about reaching a five year service level agreement, which wasn't something I was directly involved in, and, for whatever reason, that broke down and the discussion group didn't materialise and I think there were threats of striking and various things like that, to the point that Southern Vectis had been contacted at one point -- not by me, but again by the States, as I understand it -- to perhaps step in and provide some sort of emergency or shadow or skeletal service should there be a problem with Jersey Bus. But these were discussions. I have even got an email to that effect from, I think it was, Alan, although it may have been from Clive Swinnerton, saying that this may happen. So clearly there was a perception about Jersey Bus by officers of the States and clearly that was communicated to me. But, as I say, I dealt with Jersey Bus on a number of occasions and didn't have any difficulty in dealing with Jersey Bus on the matters that I was required to deal with them on.

MR GARRETT: By inference, are you suggesting that possibly those people who were critical of Jersey Bus did have a personal problem in their dealings with Jersey Bus?

MR CHILDS: I am merely repeating what I heard. I am not prepared to infer anything.

MR GARRETT: Fine. Can I ask you to comment? If one is aiming to undertake an exercise based on objective judgment, on the quality of tenders and so forth, do you think it is professional and appropriate for a senior politician at the outset to tell you that there is discontent with one of the potential tenderers and thereby potentially colour your judgment to the detriment of your ability to conduct that objective judgment?

MR CHILDS: It is what politicians do.

MR GARRETT: That is not what I asked you. I asked you, do you think it is appropriate?

MR CHILDS: I wouldn't have done that, but then I'm not a politician, but I had to understand the genesis of this whole process of what was driving the politicians concerned and, to that

extent, I suppose it was appropriate that I should be informed about their concerns. I can assure you it didn't colour our way forward and I felt it was most important that Jersey Bus were given the opportunity to enter this process for the reasons I explained when answering earlier questions.

MR GARRETT: Clearly it did influence you somewhat because of the item that you wrote subsequently, where you said about the concerns about the ability of Jersey Bus to actually work with the States.

MR CHILDS: That was a reflection of the message I got from the States.

MR GARRETT: But there is always a chance that, although you think it didn't affect you consciously, that it did in some way unconsciously affect your judgment.

MR CHILDS: Well, of course there is, but I have been through this process with many, many situations and it is a matter of standing away, as far as is possible, and being professional and detached about the situation and ensuring that there is, as I said, a level playing field in terms of operational information.

MR GARRETT: Okay. Moving forwards, to take you away from that contentious issue, were you involved in the development of the Sustainable Transport Strategy?

MR CHILDS: Um, no.

MR GARRETT: Were you aware of that document?

MR CHILDS: Yes. Let me qualify that once again. When I worked here in '97/98 for a few days, I met Dr ... his name escapes me now, but peripherally at a meeting I was aware ... Mike Romeril?

MR GARRETT: Mike Romeril.

MR CHILDS: Who was, I think, pursuing that particular agenda and I was aware generally that there was a process underway for a more sustainable transport policy and I made reference to it in some of my early documentation, so I was aware that this approach was being pursued on the Island, but I wasn't formally involved in its generation other than, of course, being involved in that aspect of the public transport provision that it was felt needed to be altered.

MR GARRETT: You have got an enormous amount of experience and when you viewed this Sustainable Transport Strategy, did you see it as an effective instrument which was going to

prompt substantial improvements in transportation on the Island or did you see weaknesses in it and that it was lacking in key areas? Did you see it as being a bit idealistic and not really achievable?

MR CHILDS: They all are to an extent, and that is the nature of the beast. It states or it sets a direction in which policy, consideration of policy, should go for the future. It is a strategy and I've not yet met many sustainable transport statements that deliver or are easy to convert into concrete actions without some -- slippage is the wrong word, but without some difficulties. They are idealistic, but they are meant to be, if you understand. They set a direction. They are strategic.

MR GARRETT: But is it not the case though in this instance that there was no money to implement the strategy?

MR CHILDS: I don't know. I wasn't aware of what money was available. I wasn't involved in the Budget procedures. Normally, as these things develop (and certainly they have been developed in many other locations) there is drawn up things like hypothecation of car parking revenues to support the public transport or public transport priority measures or that sort of thing, but that was beyond my remit to consider those aspects.

MR GARRETT: Moving forwards again to the Bus Strategy, did you have a significant hand, contribute or whatever in the production of the Bus Strategy?

MR CHILDS: Again, no. I suggested ... the bones of the Bus Strategy had been set by the time I had been involved and my initial remit and my proposal was to suggest ways in which bus operating quality on the Island could be improved. I hadn't ... I had taken it as given that there were concerns over various aspects of bus operation.

MR GARRETT: But from your knowledge of the document, would you agree that it was heavily focused on the implementation of change?

MR CHILDS: Yes.

MR GARRETT: And less concerned with the provision in the longer term of a quality bus service and so forth. It was very much a short lived strategy. Was it more actually a policy statement than a long term visionary strategy?

MR CHILDS: Well, I think that would be a fair interpretation of it, yes.

MR GARRETT: I don't know if you are aware, but the Environment and Public Services Department has recently proposed rewriting the Strategy, which suggests that, clearly, the previous one has some inadequacies in it in terms of the longer term sort of aspect of the project? Did you contribute in any way to the development of the amendments to the legislation which was necessary to progress the Bus Strategy?

MR CHILDS: Um, we set the technical principles which needed to be incorporated into legislation, but I am not aware ... we are not a law firm and my bid to the States, as I mentioned earlier, made it quite clear that we would give you, the States, the technical requirements to implement the Bus Strategy, but it was a matter for the States to convert it to law. We ... my colleague, Mr Macklin, participated in a risk seminar facilitated by Turner & Townsend, who had been engaged by the States, and one of the concerns there was that if the law was not framed properly it could leave a loophole, oh I don't know, for example, to set up in competition with a summer service.

MR GARRETT: That happened with Easylink.

MR CHILDS: As happened. But it was not for us to ... we said what we wanted to happen in terms of the local bus services on the Island. It was for the States -- and I am very happy to read to you what it says in my proposal, if you wish.

MR GARRETT: Could we get a copy of that, possibly?

MR CHILDS: Yes.

MR GARRETT: That can be done later.

MR CHILDS: Okay, yeah. But it is so important, and I have been in this situation so many times, for us to be clear about the limits of the advice we give and the way it is used. I work a lot on hospital PFI back on the mainland and it is ... I have found myself in situations where the legal people rely on me too much to come up with aspects which are really legal aspects, and I make it quite clear to them, apart from the fact that their fees were considerably more than mine, that "This is technically what I want to see achieved. If you think there is a problem technically or you need more technical advice because the law cannot be framed in such a way as to take on this technical advice, you must come to me and talk to me about it, but there is a clear limit." So

what happened here is we set the technical principles, the way in which the bus services would be procured. We wrote the conditions of contract, which clearly form part of a legal document. If you read them, which I am sure you have, they are concerned mainly with performance. Many of the aspects in that, incidentally, were given to us as blocks of text by legal officers of the States. In fact, the legal side of the States was considering reforming aspects of the conditions of contract right up to *Bulletin 2* in February '02, but there is a clear break between what we do technically and what is enacted legally.

MR GARRETT: Okay. You produced that initial document and doubtless you are aware of what came out the other end.

MR CHILDS: Yes.

MR GARRETT: And, having regard to what happened with Easylink, do you think the legislation proved to be effective?

MR CHILDS: It would appear that there was a loophole in it.

MR GARRETT: Okay. Based on your knowledge and experience, you will be aware that there is a tendency now to be less prescriptive and to sort of relax the legislation. With the benefit of hindsight, experience and so forth, do you think the current legislation could or should be amended in a way to create a better environment, to improve bus services in the Island?

MR CHILDS: On the assumption ... let us be clear, even Easylink, I had no involvement in considerations about Easylink. That was a matter which was for the officers of the States in 2003 when Easylink started. Clearly Easylink hit the mark. It appeared to be quite a successful service, but there was clearly a shortfall in the wording of the legislation that enabled Easylink to go ahead, and I understand that there was an amendment to the legislation to close that loophole. As far as I was concerned, it was a matter for the States to get the legislation correct to implement what we were advising technically. What we were advising technically was not rocket science. It was not unusual. It was based on a standard formula, but it is a tried and tested approach used in other areas and I would have hoped the legislation would be adequate. I am ... I can't comment beyond that in fact. I take the point you made earlier, that there is a tendency to be framed in general terms, certainly in the UK, and for precedent to build up as case law as it

has emerged -- in other words, as it has pushed the limits and been tested -- and that was certainly the case with parts of the Transport Act 1985; for example, a thing called traffic regulation conditions and also on the way money is paid to operators to support travel concessions for the elderly and disabled. But I can't really comment beyond that.

MR GARRETT: Okay. Moving forwards, you will be aware that there was a concern about the preservation of the terms and conditions of employment of Jersey Bus staff. In August 2001, the Public Services Committee agreed that a report, giving full details of the proposed terms and conditions of employment under the contract service level agreement with the preferred operator would be presented to the States for debate and approval before the final acceptance. Were you ever tasked to do any work on that?

MR CHILDS: I was made aware ... no, I was made aware of the one page statement which was the August 2001 base case, as it were, which operators would need to be aware of in bidding to operate on Jersey, but, no.

MR GARRETT: But no. I will come back to that issue in a minute. When it was stipulated that a new operator would have to employ the bus drivers and support staff on the same terms and conditions of employment that applied in August 2001, that was the sort of cut-off date and that was based on an agreement, I think, that was negotiated with one of our -- he was at that stage a former politician, but he is now back in politics. Did anybody envisage that the wage negotiations that were scheduled for February and March 2002 would be put on hold until such time as the new operator was in place?

MR CHILDS: Um, that was something that I was not asked to consider, so I can't comment.

MR GARRETT: But it didn't come as a surprise to anybody that the annual wage negotiation which was scheduled for March -- the anniversary of the pay claims was March -- that that would go ahead irrespective of the tendering process.

MR CHILDS: We were asked to build into our guidance for operators the assumption of a 4.5% pay increase from March '02 as well as making them aware of these conditions, the conditions which applied from the August agreement.

MR GARRETT: Do you agree that the tender documents that you issued actually highlighted

the need to preserve the terms and conditions and employment of the staff of Jersey Bus?

MR CHILDS: Yes, I do.

MR GARRETT: Can you describe for me the nature of the terms and conditions of employment that you were aware of and that were circulated with the tender documents?

MR CHILDS: They were concerning things like length of shift, levels of pay for overtime, levels of pay for standby operations. They were a pretty typical set of pay and conditions for an operator in the pre-deregulation situation on the mainland. They were a range of matters that ----

MR GARRETT: Were you aware of the sort of what I would refer to as the "soft" element of the terms and conditions of employment -- some would say the harder -- but things like sort of disciplinary procedures and so forth, because I understand there is a book or something which is used in addition to the sort of documents that you might have been aware of?

MR CHILDS: I was aware of their existence, but not of the detail of them necessarily.

MR GARRETT: Okay. So those weren't circulated to tenderers? Presumably there was an assumption that the successful candidate would have to delve into that matter in greater detail and make sure that whatever they offered would reflect those?

MR CHILDS: Yes, and there was nothing to stop ... tenderers were well aware of the high level of involvement of the TGWU in the bus operation in the Island. In fact, a lot of them asked for clarification on employment law on the Island. That was sent to them by us having got advice from the States, but operators were invited to become serious about this in October 2001 and a lot of them came and made visits to the Island. I know one or two of them actually went to see Jersey Bus. It was also clear to them, as I said, that there was a strong trade union involvement in operations. The trade union was a strong trade union and it would be for them to, given the broad guidance about the August 2001 agreement, meet the unions, if necessary, and talk issues through. I mean, they are used ... almost all big operators are used to dealing with the trade union situation and it was for them to inform and assure themselves. I don't think we withheld anything from them, but we are not holding their hands through the tendering process. It is for them to interpret the full information we gave them.

MR GARRETT: I think you have answered my next question. So, moving on, when Connex

was appointed or chosen as the preferred operator, did you meet with them at all or did you supply them with any sort of basic contract-type material, sort of models for them to use, or was there an expectation that they would deal with the terms and conditions of employment on their own?

MR CHILDS: It was entirely for them to work this out. We met ... we had dealings with Connex as a potential operator during the build-up process and we answered their questions through the bulletins and made everyone else aware of the answers we had given them and vice versa. We met with Connex after the short listing, before confirmation, to seek clarification on various aspects. We have discussed that earlier and that was a specific instruction from Mr Muir to do that. Other than that, the negotiations or discussions between Connex and the States were very much just that. We withdrew from direct involvement, unless we were asked to help out, from about March 2003. As I say, there is a note of the fall off in our workload, no more work to do having been so involved in it, in the build-up process. I am very conscious of that.

MR GARRETT: Do you actually know whether Connex did honour the requirement for them to offer the same terms and conditions of employment for Jersey Bus staff?

MR CHILDS: Um, I didn't check it point by point, but I understood that they did generally. Certainly in their correspondence to us concerning the shift allowance they said that they felt obliged to pay it, otherwise there would have been an industrial dispute at the beginning of the new operation, which wasn't an appropriate situation to be in. But they didn't make me aware that they had fully honoured everything that was required of the August 2001 statement. There was no reason why I should be made aware of it at that point because it was into the post-award negotiations or discussions.

MR GARRETT: Bearing in mind all that had gone before, would it surprise or disappoint you to learn that the opening bid of Connex in their negotiations and discussions with the Transport and General Workers' Union, was to offer a package which was substantially less than that which had been applicable to Jersey Bus and it took probably about another two or three months of negotiation to build it up to match what Jersey Bus had in place?

MR CHILDS: I was totally unaware of that situation, but ... I have to be careful what I say here. Knowing operators in general and knowing the margins at which they operate, I am not

surprised to hear that, but I was totally unaware of that. **(Pause)**

MR EVERSON: Could I pass a note to the Committee, please? **(Same done)**

MR GARRETT: Whilst that is being considered, in a report that was considered by the States on 9th December 2003, it was stated “*The start of the operation at the end of September was beset with difficulties. Some facilities for the operator, including a new garage at La Collette, were not completed for a variety of reasons. The changeover staff and other logistical difficulties meant that commuters experienced some loss of service in the first few days.*” Do you know what kind of staff problems were experienced?

MR CHILDS: No, I have no knowledge of what happened.

MR GARRETT: You have no idea?

MR CHILDS: We were out of it by then in terms of general involvement, but I am not surprised. It was a major change.

MR GARRETT: Okay, and you are not aware really of what happened in terms of terms and conditions of employment following that?

MR CHILDS: No.

MR GARRETT: Okay. If we can go back to the level of knowledge that existed during the tendering process on the wage claim, did you provide supervision, direction or whatever in relation to the drafting of the tender documents?

MR CHILDS: Um, our tender documents?

MR GARRETT: Yes.

MR CHILDS: I was fully aware of what was going on.

MR GARRETT: Right. Were you fully aware of the words that were used in paragraph 3 on page 2 of the document marked “*States of Jersey: Conditions of Contract for Local Bus Services*”? I will break them down. I have actually broken them down into four sections. We have touched on this before, but I am going to come at it from a slightly different angle. “*The Contractor shall satisfy himself that the information, including documentation provided by The States, is adequate and will not prejudice the performance of any of the Contractor’s obligations under the Contract.*” That is the first statement in that paragraph. The second one is: “*The*

Contractor shall inform The States immediately of any inadequacy whereupon The States shall make good the inadequacy to the reasonable satisfaction of the Contractor.” So that is the second bit of it. “The Contractor shall be deemed to have examined the requirements specified and these conditions.” That is the third part of it. Then the fourth part of it: “No claim from the Contractor for additional payment will be allowed on the grounds of misinterpretation of any matter relating to the requirements specified in these conditions on which the Contractor could reasonably have satisfied himself.” So that is the fourth part of it. You were fully aware of those?

MR CHILDS: I was fully aware of the general conditions, yes. They are, frankly, fairly generic.

MR GARRETT: Just one point, and I think you touched on it before. Did you maintain a register of the enquiries that you received from the tenderers?

MR CHILDS: Yes.

MR GARRETT: Have you ----

MR CHILDS: During the tender process.

MR GARRETT: During the tender process. Have we received a copy of that material?

MR CHILDS: In effect, the bulletins are a copy of that, because every enquiry was logged and responded to in the bulletins.

MR GARRETT: But presumably the register itself would indicate the source of that enquiry.

MR CHILDS: Yes, the registers are files.

MR GARRETT: Okay. That is what it amounts to. It wasn't on a ledger as such.

MR CHILDS: Mr Davies handled incoming enquiries. They came in on a number of ways. They could be telephone, email, fax or letter. He was rigorous in making sure that each one was recorded and with many of them we had to go back to the States to seek clarification and that clarification was sought immediately, and that was generally done by email to and from Alan Muir. So I am satisfied that we responded to every query that was put to us.

MR GARRETT: Okay. But there wasn't, in effect, a single ledger type register?

MR CHILDS: There was not a formal ledger as the part of the process, no, but there was a list.

MR GARRETT: Okay. I will return to these conditions a little bit later on. Returning to or looking at the theme of communication, you worked closely with Roger Macklin and Neil Davies on Jersey projects. What kind of communication policy did you have within the office for sharing information, storage and access to data and so forth?

MR CHILDS: Um, Mr Davies maintained files. Mr Davies at the time worked a couple of desks away from me. We saw and discussed issues on a daily basis and Mr Macklin was at that time a sub-consultant to Halcrow. He is now an employee of Halcrow. He worked more remotely. He lives in a village near New Market in Cambridge. But we met ... again we had daily communications by telephone and we met on a regular basis at an intermediate point between my home in Nottingham and his home in near New Market, so there was very, very close communication.

MR GARRETT: Was that a sort of weekly arrangement or ----

MR CHILDS: It wasn't as formal as that, but it was as and when. I suspect we spoke just about every day, sometimes more than once a day, even weekends because we were ... at one time this was all consuming.

MR GARRETT: Who would you say within your office was responsible for making sure that all people involved in this project were fully briefed on what was happening?

MR CHILDS: It was mine as project director.

MR GARRETT: You were responsible?

MR CHILDS: Yes.

MR GARRETT: Okay. Can you explain the process that was adopted for sharing information with Public Services? Was that your responsibility or?

MR CHILDS: As director it would have been my responsibility. It was the duty within the job of the individuals involved in any particular topic to share information with Public Services, but, again, there was a very, very regular level of correspondence between all of us and Alan Muir. In 2001, when he took his annual holiday, he deputed (if that is quite the right word in the circumstances) or he asked Dr Clive Swinnerton to take that responsibility as the department director. So I had communication with him. But it was almost exclusively by Alan Muir unless

he was absent for any reason, but we were well informed of each other's movements in terms of blocks of leave and other commitments that would take us away from our offices. But it was such a frequent level of contact that it went beyond any formal process. We didn't establish a formal document reporting because I think we always knew that it would be very, very frequent contact. I didn't visit the Island many times, but there would be very, very frequent contact.

MR GARRETT: Okay. Taking it on to contact with Public Services, was there any kind of formal arrangement whereby weekly, monthly or whatever there would be a formal meeting whereby progress would be assessed and the project plan would be developed for the next month, week or whatever?

MR CHILDS: We had a broad project plan in terms of dates and milestones and we also found ourselves from time to time putting pressure on officers of the States to come back to us with assurances about legal procedures, about reviewing conditions of contract and so on. But there was no formal project plan as such. We felt it not necessary because of the level of frequent contact that was involved. We were working on this, certainly Mr Davies, virtually full time for a period of three or four months and I was reviewing progress on a daily basis and, as I say, having contact with the States on a daily basis. It was a matter for the States internally to ensure that procedures necessary to ensure that we had adequate information to firm up on things like conditions of contract were with us when they needed to be.

MR GARRETT: Okay. Just exploring an issue you raised just now, you had a broad project plan but there was no detailed project plan which was drawn up by yourself in conjunction with John Richardson or Alan Muir really focussing in on the sort of detail and determining who was responsible for what elements over what kind of period. There wasn't any kind of ----

MR CHILDS: There was an understanding of what was necessary ----

MR GARRETT: But there was nothing in writing?

MR CHILDS: ---- but no formal project plan, no.

MR GARRETT: With the benefit of hindsight, bearing in mind that you have got a public sector sort of situation here and somebody from a non-private sector in a consultancy, there is potential for variation in terms of understanding of urgency and so forth. At the very least, you were

probably driving ahead because time is money; whereas the public sector may not actually share that same degree of urgency. Do you think you would have benefited from a more formal project plan to make sure that all the angles were covered and all the jobs that needed to be done were done in a timely fashion? Would it ----

MR CHILDS: Um, I think the project management we had in place was adequate. I have worked on projects with formal project plans and many engineering projects are on that basis. What they don't address ever, because they can't, is unforeseen circumstances, unforeseen developments, and there is a ... in a project like this there is a mass of unforeseen developments that take place. So that may not be the answer you quite expected, but, um, we were on the case, on the situation and on top of central problems on a daily basis. So it wasn't the sort of project that has many, many players from our point of view, or many partners to co-ordinate, which normally can be assisted by a project plan.

MR GARRETT: I'm actually confused and slightly worried as to who was running the project. You are project director from Halcrow and one assumes Alan Muir was, in effect, project director or whatever from this end?

MR CHILDS: Yes.

MR GARRETT: Who was running it? Who was actually in charge? Who bears ultimate responsibility for everything that happened or didn't happen, anything that went wrong? Who bears that responsibility?

MR CHILDS: Um, we ... we stated what we would deliver in terms of a product to the States to enable them to achieve what they wanted to achieve. The States were the implementers of the proposals and, as such, if you believe it is useful to identify where responsibilities lay, it is with the States. It is their requirements that were enlarged by us, in terms of a proposal and a methodology.

MR GARRETT: But the States is a vague body. What I am looking for is an individual.

MR CHILDS: The Public Services Department then, Mr Muir, as the individual who was driving the project forward from the States' point of view.

MR GARRETT: And not John Richardson?

MR CHILDS: Well, John Richardson is the head of department, but I had very little dealings with John. He wasn't the head of the department when I started the process, of course, that was Dr Swinnerton.

MR GARRETT: Swinnerton, yes. Do you think you would have benefited from having a bit of a supremo because, to a certain extent, you and Alan Muir both see yourselves as sort of directors of the project from slightly different angles, but do you think there would have been any advantage in having a supremo sitting above that to actually bridge the gap between the consultants and the public sector?

MR CHILDS: I can understand why you ask that, but I have to say I'm not convinced that there would be many merits in doing that because it was such a detailed process that, unless that individual became totally embroiled in the detail of the process, I'm not convinced they could have made any effective interventions.

MR GARRETT: But the difference is, of course, that it makes identifying responsibility that much easier. The buck can only stop with the supremo.

MR CHILDS: I wouldn't dispute that.

MR GARRETT: Okay. Going on from the sort of project plan, did you either in office or do you know if Public Services ever produced a system of action plans so that they knew what was being done and there were sort of milestones and all kinds of things in place?

MR CHILDS: We had a rolling programme of key dates within the process by which things ---
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MR GARRETT: But there wasn't a sort of documented action plan type process?

MR CHILDS: There are emails with key dates on them, but there was no documented action plan. It was quite clear in my view what requirements we were imposing back on the States in terms of reviewing things like conditions of contract, and it was quite clear in my view that they knew the principles of law, the principles of legislation that had to be established, the new legislation, but that was for them to drive forward and to ensure that it was in place, not for us. It was for us to react if they found a particular difficulty, but what we were doing was enshrining in law some fairly general principles by which the new régime would be introduced and governed.

MR GARRETT: Okay. Going on away from that, I understand that you were on leave when the letter of 12th February came to you on 12th February about the shift allowance?

MR CHILDS: I came back on the 13th.

MR GARRETT: You came back on the 13th. When were you actually notified of that letter?

MR CHILDS: I think ... I seem to recall Mr Davies letting me know at home -- I can't remember whether it was by email or otherwise -- that it had come in. Certainly I think he made me aware as soon as possible.

MR GARRETT: And when you returned to work, did you examine the material?

MR CHILDS: Oh we immediately considered it, yes.

MR GARRETT: Okay.

MR CHILDS: We didn't lose any time as a result of me being away.

MR GARRETT: Bearing in mind the concern that you expressed previously in response to questions from my colleague about this wage claim, did you contemplate telephoning Jersey Bus or the union to try and actually find out a little bit more about this thing and try to assess the probability of that wage claim actually being met?

MR CHILDS: Jersey Bus were one of the tenderers. I don't consider that that was a proper thing to do.

MR GARRETT: Okay, so take it back to the union?

MR CHILDS: No, I didn't, because they were very, inevitably very, close to Jersey Bus and I didn't think that an appropriate thing to do. I simply at the time, with two days left to the effective closing of tenders (because people have to get couriers sorted out), we simply turned this thing round in a matter of hours and made people aware of it.

MR GARRETT: Okay. And the limit of your knowledge of the basis of that wage claim is really what is contained in that letter?

MR CHILDS: Absolutely.

MR GARRETT: And you are sure that the letters were circulated to the tenderers on the 12th?

MR CHILDS: I'm 100% sure.

MR GARRETT: Okay. Did any of the tenderers come back, to your knowledge, and query this

information?

MR CHILDS: Um, not to my knowledge. No, I have no recollection of that happening.

MR GARRETT: Okay. So, in the absence of questions from the tenderers, would it be fair to say that they accepted that letter?

MR CHILDS: They clearly understood what was in the letter.

MR GARRETT: Fine.

MR CHILDS: And understood the word "*claim*".

MR GARRETT: Would it be fair to say that, from that point, each of the tenderers was faced with a massive and difficult choice? They either got their accountants to quickly calculate the effect of that wage claim in full and included it in their tender or took a huge gamble and assumed that it wasn't going to be met?

MR CHILDS: Clearly that is the sort of decision process they would have had to go through, yes.

MR GARRETT: If they opted for the latter, is it not simply a case of being tough on them? It was their choice and if that claim had been met in full, which it was, it's tough; they made the choice?

MR CHILDS: Um, that's an interpretation. Yes, they have the information which is for them to react to it as they saw fit.

MR GARRETT: Okay. Can I take you back to the conditions that I described previously in the tender document? There is a specific one there which says: "*No claim from the Contractor for additional payment will be allowed on the grounds of misinterpretation of any matter relating to the requirements specified in these conditions on which the Contractor could reasonably have satisfied himself.*" None of the tenderers came back to seek clarification, so there is an assumption that they accepted that document?

MR CHILDS: Um, yes.

MR GARRETT: Okay. So how is it that Connex was able to justify coming back and seeking more money?

MR CHILDS: Um, they were giving the States assurances later in 2002 that they hadn't

included that aspect of the claim in their tender.

MR GARRETT: But that's tough. We've just gone over that point. That's tough on them. It's not a matter ... according to these documents, it's not a matter on which the States should have been paying out any money. **(Pause)** Do you accept that? Do you accept, on a strict interpretation of the tender document, that specific part of the tender document, it was tough on Connex? They had accepted the receipt of that Transport and General Workers' Union letter. They hadn't queried it. They had made a commercial decision, they say, not to include it in their tender document. It is tough.

MR CHILDS: Hmm hmm.

MR GARRETT: So why should the States pay out that?

MR CHILDS: Well, perhaps they shouldn't. That is an interpretation certainly, but I think the doubts were there at the time about the ... it was a most unusual device within a pay claim to go for a 22% pay increase over and above the 4.5% that had already been established. All I can do is react in the way ... tell you how I reacted when I saw it in producing my shadow bid. I did not include it in my shadow bid.

MR GARRETT: But still your shadow bid was substantially higher than that produced by Connex.

MR CHILDS: It was ... I recall it as 5.1 millions as opposed to 4.78 from Jersey Bus and 4.3-ish from Dunn-Line and Connex. It was perhaps 7% higher than Jersey Bus'. I actually don't think that is bad, in that I wasn't ... I'm not an operator. I don't have that fine, sharp pencil of commercialism. What I wanted to do was to check quantities of labour, quantities of fuel etc that went into mine were broadly in order. It was to ensure that any bid that came in substantially below ours -- I mean 3.9 millions was one of the bids that came in from one of the operators who didn't make it to the final three -- it would act as a benchmark from that. I wouldn't expect necessarily to be able to put on to my own shadow bid that final slice of risk that operators were prepared to take on a commercial basis.

MR GARRETT: Okay. Over and above what I have just described about, you know, Connex's position, it being tough really, in my view, we have of course the comments which my colleague

raised earlier, where clearly, on an interpretation of their tender, it's clear that they included the wage claim from Connex.

MR CHILDS: Yes, I don't disagree with what it says in the tender documents.

MR GARRETT: So taking the two components together, I'm still struggling to come to terms with the idea that the States should pay money to Connex.

MR CHILDS: Why I recommended that?

MR GARRETT: And indeed why you recommended that.

MR CHILDS: I came into this again in December 2002, asking ... and I was asked about the reasonableness of this as a claim. I had assumed at the time that there had been some debate -- I wasn't actually furnished with any information -- that in principle this would be an acceptable way forward, that Connex hadn't indeed included it in their bid. I didn't ... we didn't retain copies of the tender documents. We handed those over to the States in ... well, when we finished analysing them in February '02. My recommendation was based on the assumption that they indeed hadn't included it and ... I mean, I cannot offer an argument against your interpretation of what it says in Connex's tender document, but the mere fact that I was asked to comment on the reasonableness of it back in December ----

MR GARRETT: But there is a difference between reasonableness and whether or not it should be paid.

MR CHILDS: Yes.

MR GARRETT: In terms of strict compliance with all of the conditions set out in the tender documents, the contracts and so forth.

MR CHILDS: Hmm.

MR GARRETT: Reasonableness, that is a sort of woolly area. What we are looking at is whether or not it actually should have been paid having regard to all the contract issues and so forth. Sticking very tightly to the contract documents, tender documents and all of the information that was available to Connex, should that money have been paid? I'm not asking whether or not it was reasonable; I'm asking whether or not, in contract terms, that money should have been paid?

MR CHILDS: It appears not, but, looking at it from our point of view, I was asked to look at this again back in, say, December '02 and I think it was reasonable for me to assume that there had been some discussion, some debate between Connex and the States that reopened this issue. I was absolutely adamant about the other issue, the peak vehicles issue, because, in my view, it was quite clear that there was a duty on the States ... sorry, on the operator to inform themselves of the situation on the Island before bidding. In terms of this other matter, then I can't put forward an argument against what you are advancing to me, but it was given to me that it should be, you know, something which was to be reopened as an issue, and I had assumed at the time that there had been some discussion, some debate between Connex and the States looking at whether this was a reasonable thing to consider. Now, please remember that I wasn't closely involved in many discussions between about March/April '02 to late '02 when this issue came to the fore. I visited the Island on a number of occasions mainly to do with quite separate work on the Transportation Centre. It was very much a States matter, in my view.

MR GARRETT: Before you reached your conclusion that it would be reasonable for the States to pay that money, did you actually go back and examine all the documentation?

MR CHILDS: I was aware of what it said in the ----

MR GARRETT: No, that is not what I asked. Did you go ----

MR CHILDS: I couldn't go back and examine in detail all the documentation, no.

MR GARRETT: Okay. What was the time frame between the time that you reached that conclusion and the time that you last saw the tender documents and so forth?

MR CHILDS: I don't think I could tell you that without reference to records.

MR GARRETT: But it was many months?

MR CHILDS: Yes, it was ... there was a meeting in December '02 where Connex raised the issues with us and ----

MR GARRETT: So potentially you last saw all the tender documents probably at the conclusion of the tendering process selection in March?

MR CHILDS: Yes, yes, I didn't retain a copy.

MR GARRETT: And during the intervening period you had been working on other projects?

MR CHILDS: Oh yes.

MR GARRETT: Fine. So, again, why didn't you go back and actually check on the documents to make sure that what you were recommending as being a reasonable thing to do was consistent with what was set out in the tender documents, contracts and so forth?

MR CHILDS: Um, I had assumed that there had been a reopening of the debate with the States and they would wish to consider this. I am certainly aware of the condition ----

MR GARRETT: Sorry, I'm not really concerned about what you thought the States might be doing. What I'm asking is why didn't you go back and check on all the documents to make sure that your recommendation was consistent with the contracts and so forth?

MR CHILDS: Well, I have given you the reason. It was the ... I made an assumption that the debate had been reopened with the States on this particular aspect. I didn't go back. I didn't think there was a need to under those circumstances.

MR GARRETT: But possibly if you had, you might have ----

MR CHILDS: But I was aware of it. I hadn't forgotten about the Connex bid, but it was something which ... **(Pause)**

MR GARRETT: Do you know if anybody took legal advice on whether or not the money should be paid?

MR CHILDS: I don't.

MR GARRETT: Okay. Did you receive any kind of input from Public Services in any way on the reasonableness of this claim?

MR CHILDS: Um, I was made aware of the claim obviously and I wasn't ----

MR GARRETT: What was the opinion expressed by Public Services' personnel?

MR CHILDS: I don't recall any guidance in that respect.

MR GARRETT: Okay. I will give you a little light relief for a moment and move away from that. We spoke before about emails and so forth being sent off to Public Services and correspondence between yourselves. Up until the time that the Transport and General Workers' Union letter was sent to Public Services, did you ever receive complaints from Public Services about non-receipt of emails?

MR CHILDS: Um ...

MR GARRETT: Did they ever come back to you and say “You’ve referred to an email in this new email and we haven’t received the previous one”? Did they ever indicate to you that they were having any kind of difficulties with their technology?

MR CHILDS: No.

MR GARRETT: No.

MR CHILDS: No, I can’t remember anything of that sort.

MR GARRETT: And that’s never cropped up subsequently at any stage?

MR CHILDS: I’m not aware of it, no.

MR GARRETT: Similarly in relation to the handling of conventional mail, did they ever complain to you that they had a security problem and that mail was disappearing from their offices?

MR CHILDS: Um, no.

MR GARRETT: No.

MR CHILDS: There was a debate, of course, about whether they had received the letter, the attachment to *Bulletin 2*, but our records show that it was attached and I have described that as a way in which the material was available to them, but I’m not aware of that. I mean, I think we did rely on email a lot because, in general, stuff coming in from a public authority as an item of mail can be delayed and there was considerable urgency in responding to various queries in order to get bulletins out and so on.

MR GARRETT: Okay. There is some debate about whether or not an email, or an uncertainty about whether an email, was actually sent with an attachment.

MR CHILDS: Hmm.

MR GARRETT: Bearing in mind that emails were sent to all the tenderers, would it not have been wise -- you have got the attachments, you know, sitting on the computer -- just to have simply fired off an extra email to Public Services at the time?

MR CHILDS: Yes.

MR GARRETT: Okay. Has your system been audited at all to see whether or not, to confirm

absolutely whether or not, an email was sent?

MR CHILDS: No.

MR GARRETT: Would you be amenable to allowing such an exercise to be conducted?

MR CHILDS: Um, that's really for my board of directors to make a decision on. I would be able to recommend that it should, but I don't know. I've no idea technically going that far back whether it is possible to ascertain whether it was sent or not.

MR GARRETT: Unless you have had a massive change out of technology it probably is.

MR CHILDS: If you say so.

MR GARRETT: Okay. You have seen the notes that Roger Macklin produced -- you have got a copy -- and you have also seen the notes that Chris Lewis compiled. This may be a difficult question for you, but have you got any way of knowing or justifying the difference between those notes? You start off first of all with the list of people who were there, because that created a difficulty subsequently, as you are aware, because Roger didn't include Alan Muir's name in there.

MR CHILDS: Alan Muir was there for only part of the meeting, as I understand it.

MR GARRETT: No, that's incorrect. Certainly on the basis of the information I have currently, I am yet to be convinced that, minus any ----

MR CHILDS: Mr Macklin will be able to help because that is my understanding.

MR GARRETT: I will have to ... There is also a substantial difference in the sort of amount of text which is set out in the documents. Is that just a style issue? Are those just prompt notes and did Mr Macklin come back and produce any other kind of file note?

MR CHILDS: These are the notes of the meeting.

MR GARRETT: That's it?

MR CHILDS: They were to address specific aspects of each bidder, different specific aspects from different bidders, of course, and that was the note of the meeting. I've seen ... I didn't get to see the Jersey Bus notes until of course quite a long time after the meeting took place and they are more lengthy and they do seem to address some of the issues that come up as direct points of concern, which is some sort of coincidence I am sure.

MR GARRETT: Hmm. Would you agree that in the notes compiled by Chris Lewis there is quite a detailed ... quite an amount of detail in relation to the wage issue and that detail is not reflected in the notes compiled by Roger?

MR CHILDS: It is and I would also say that Roger is a very thorough note taker at meetings and had that come up at the time I'm surprised it wasn't recorded.

MR GARRETT: But, I mean, most of his notes are just one liners.

MR CHILDS: Hmm.

MR GARRETT: I wouldn't think ----

MR CHILDS: They are very precise certainly.

MR GARRETT: I wouldn't actually ... maybe it is an interpretation issue, but I wouldn't actually describe that as thorough. They are just one liners. They are prompts to refresh his memory.

MR CHILDS: I would say that they represent the contents of the meeting at the time.

MR GARRETT: How long did the meeting last?

MR CHILDS: I don't know.

MR GARRETT: But one sheet of A4 for a meeting that may have lasted an hour or more is not a lot.

MR CHILDS: Right.

MR GARRETT: You participated in the exercise to evaluate the tenders. Did you notice any references to the wage claim in the tenders?

MR CHILDS: Um, we were aware of the ... Dunn-Line made a fairly unequivocal statement about including it. I'm aware of what you talked about in terms of the claim by the Connex bid. Jersey Bus had stated in their letter prior to tender that they weren't including it and I understand that they didn't include the shift allowance element. But we were focussing on a wide range of different cost elements within the bids, and I have to say that hindsight is a wonderful thing, but the feature that exercised our minds most at the time was whether fuel duty rebate had been properly taken account of.

MR GARRETT: That was worth £90,000 and the wage claim was worth 200,000.

MR CHILDS: Yes.

MR GARRETT: Okay. Bearing in mind that Dunn-Line made a specific reference to it, did that not prompt something in your mind to say “Maybe when we come to the presentations, we should ask the tenderers to explain the extent of their sort of wage negotiations to determine whether or not there is a level playing field in play and that all have tendered on the same basis”?

MR CHILDS: Um ...

MR GARRETT: Do you wish that you had asked that question?

MR CHILDS: Well, of course I do in hindsight. I mean, hindsight is a wonderful thing, isn't it?

MR GARRETT: Okay. When we get to the special meeting that was held on 15th March, can you tell me the sort of ... how the sort of ... how the presentations were measured. Did you have some kind of matrix in place? Did you decide on a set of criteria and were the criteria weighted so that you would have some kind of almost scientific process?

MR CHILDS: No, not at all. At that point I had been advised that, having done the evaluation and presented the States with three operators who could deliver, it was a matter very much for the members of the States to make a decision. I did advise on a range of questions to be asked in response to the presentations and I put those forward, but there was no scoring matrix as such. The three presentations were of such different format and ... quality isn't the right word, they were all of very good quality indeed, but they had different qualities. The Dunn-Line one was very matter of fact. The Connex one was ... they were represented by three very senior members of the organisation and it was very ... um, it was based on what Connex could offer and had offered in other areas. It was more seeking the Committee to take comfort in the fact that they were an experienced operator with many similar operations elsewhere. So they were very different operations. We had simply said “Please make your presentation about 15 minutes in terms of content and allow a similar length of time for questioning.”

MR GARRETT: Okay, so ----

MR CHILDS: But the scoring, the evaluation which had been put before the Committee at that

time was from our technical note and it wasn't a beauty parade as the only or the main part of the process. It was a part of the process, but it was ----

MR GARRETT: But it was still fairly subjective? I mean, it wasn't scientific.

MR CHILDS: It was subjective, but I think when these presentations take place in a more structured and analytical sort of way, it is not always ... the scoring itself can be relatively subjective unless the presentation is done in a very, very strict formulated way and it was decided -- not by me, but by officers of the States -- that it would be more appropriate to take presentations in a fairly free form way with simply this limitation on the time that the presentation would take. As I recall, there was roughly a half hour slot for each of the three bidders, with a 15 or 20 minute separator between them.

MR GARRETT: Were the presentations recorded in any way -- videoed or anything like that?

MR CHILDS: Er, no.

MR GARRETT: Was consideration given to that?

MR CHILDS: I don't know. You would have to check with Mr Muir on that.

MR GARRETT: Did you participate in the final stages, the final selection process, where the Public Services Committee actually made the decision?

MR CHILDS: I was ----

MR GARRETT: Were you present?

MR CHILDS: No. As I say, my involvement in the tendering process ended when I delivered the second technical note on assessing the bids and attended but didn't speak at the presentation.

MR GARRETT: At that meeting on the 30th -- but you weren't there -- it has been said that the Bus Strategy Steering Group bought forwards a unanimous recommendation in favour of Connex. Have you any idea when that unanimous decision was reached?

MR CHILDS: Certainly at the end of the presentation I think members were ... on 15th March, members were suitably impressed with Connex, but not otherwise.

MR GARRETT: Right. Looking back at the tendering process, are you 100% satisfied with the conduct of the process?

MR CHILDS: Um, I think I would be unwise to be. One always learns from every single

exercise of this sort that one does.

MR GARRETT: How would you react to criticism that the process was rushed?

MR CHILDS: Um, it was done in a very short timescale because the States had a particular deadline they wanted to meet, but I don't think it was rushed. There are ... operators who are used to reacting to bids of this sort in quite a short period of time. They were made aware of the process initially through the first advertisement in the trade press in, I think it was, late September '02. They received in early November a briefing pack which ... then things were going on and enquiries began to flow from that time. They were pretty familiar with what they were going to be asked to bid for before the actual tender documents were issued on 12th or 13th January. They were given a five week period to turn that stuff around. It's not the longest period and ideally it could have been a bit longer, but we were working to time constraints that the States had imposed. The key constraint was that the operator would have to gear up with vehicles for an instant changeover from midnight on the 28th, I think it was, of September '02. That included getting a fleet ordered, built and over to the Island and it was driven by our consideration of what would be a reasonable amount of time for operators to respond. But there are many major tender situations in which broadly similar tender preparation periods are given. It is not ... it could have been ... the luxury of more time would have been helpful. There is also a tendency, frankly, in the bus industry, which was very, very short term, for operators to leave bids to the last minute anyway. That is a matter for them, but it's a characteristic of the bus industry. It seems to be driven by short termism.

MR GARRETT: But if more time had been available it would have provided an opportunity, a greater opportunity, for potential tenderers to conduct themselves to actually really have an opportunity to dig in to relief services and so forth.

MR CHILDS: Well, it would, but they were warned about the need for relief services very early in the process and could have and should have seen for themselves. What was happening in, say, November of '02, which was in the dead of winter, when weather is indifferent and I guess the use of peak services is at its highest.

MR GARRETT: Accepting the difficulties, the commercial difficulties, and issues in terms of

accessing Jersey Bus' material on passenger demand, was consideration ever given really at the outset of this project to employing students or whatever during the summer period to conduct some research so that you would have independent material? Without infringing Jersey Bus' position, you would have independent information that you could supply as part of the tendering process.

MR CHILDS: It is my understanding that wasn't considered. I mean, the lack of information did concern me. One of the issues would have been that it ... well, it would have been possible to carry out a period of surveys from, arguably, June/July '01 through the summer to observe the level of the peak operation, but, to be absolutely fair to Jersey Bus, they had indicated, particularly in the summer peak, the summer peak issues, that they could have nine or even ten duplicate vehicles ready to leave the Weighbridge and we made tenderers aware of the general level of activity there. But it could have been done and it wasn't done. It would have been helpful.

MR GARRETT: An exercise conducted in the summer and possibly one during sort of half term for A Level students or whatever or even just before Christmas ----

MR CHILDS: Half term would have been totally the wrong time to do it technically, but they could have.

MR GARRETT: Or even at Christmas time.

MR CHILDS: No, that would have been wrong too. I think what you needed to do would be to have done it in something like early October and then probably applied external factors to allow for the Christmas build up. That would have been the fairest way. I am sorry to jump down your throat.

MR GARRETT: That's fine.

MR CHILDS: But you're quite wrong. It could have been done, but not at the time that you're suggesting.

MR GARRETT: Okay, but possibly one or two exercises would have given fairly accurate data that could have been supplied to potential tenderers ----

MR CHILDS: Yes.

MR GARRETT: ---- and it might have helped the situation.

MR CHILDS: It depends if they were that serious. They could have done that for themselves. There was time to do it. Operators are, if they get the right people in, quite adept at judging the load factors and the service and reaching their own conclusions, but that was for them to do. But, yes, it could have been done and it would have been more helpful than no data at all.

MR GARRETT: Just going back to the deadline that was set by the States, what would have happened if buses hadn't have been available? At one stage, I understand that they just weren't being made.

MR CHILDS: There were ... I think there was a delay with the delivery of the last handful of new buses and Connex had to hire in stuff from the mainland to cover. It would have been an absolute disaster if, for whatever reason, strike or otherwise, the service wasn't on the road on the first day of the new operation and it would have reflected on their quality of operation for a very long period.

MR GARRETT: Did that crop up in the risk process?

MR CHILDS: Yes, in the risk analysis.

MR GARRETT: Okay. Was consideration ever given to the thought of actually buying the data from Jersey Bus?

MR CHILDS: Um, no, not ... I ... they were so uncomfortable about making data available for the negotiation exercise we did in September '01. I had to sign a several page agreement on confidentiality so that I didn't consider that would be a reasonable approach to make. I cannot remember whether I discussed it with the officers of the States, but I guess they would have taken a similar view and I couldn't see Jersey Bus releasing accurate data which would have been useful for this purpose. It would have been much more appropriate to gather the data individually. I think it would have been an imposition to request it of them, frankly.

MR GARRETT: And it wouldn't have been an outrageous cost, gathering it independently?

MR CHILDS: It would have ... I would have been very unhappy about some students doing work into that. I would have recommended, had it gone ahead, that they used a professional data collection company. It would not have been outrageously expensive. It would have been more expensive than using students. I mean, even when I do projects of my own, I engage the services

of a separate contractor to take data. It is not something that I like to have my staff do because it requires a lot of people at one time.

MR GARRETT: But it would have been less than what Connex claimed in relation to the relief service issue.

MR CHILDS: Um, that was ... yes. Oh it would have been, absolutely, yes. It would have been ... you are asking me ... I don't like giving quotes for jobs, but it would have been very much less, yes.

MR GARRETT: Bear with me. You've answered some questions that I had lined up for you. There is a significant gap between the time of the presentations on 15th March and the final decision on the 30th. Was that delay purely a consequence of the delay in progressing the legislation?

MR CHILDS: I don't know. That was a contributory factor. I understand there were some timing issues to do with committees, but that was very much in the hands of officers of the States at the time.

MR GARRETT: This is a difficult question for you to answer possibly ----

MR CHILDS: Another one.

MR GARRETT: Another one. Are you 100% comfortable that all the evidence that is available now indicates that the whole process was conducted -- and I'm not referring exclusively to your process -- but that the whole process was conducted on the basis of a level playing field or do you think that there were some elements of prejudice, bias or whatever, that may have actually unduly influenced the process?

MR CHILDS: As I said, we conducted things on a level playing field. There was clearly a colour in the States that ... we wouldn't have been doing the exercise had they been totally satisfied with the level of service they were already receiving, so clearly there was a colour there that suggested that people weren't satisfied with the current level of bus service and I was ... it wasn't helpful in the process that there were delays in the States responding to draft conditions of contract. It was only by putting pressure on Alan Muir to get the appropriate officers to look at things that things were done more speedily. It surprised me that the legislation wasn't topped

and tailed until after the process had been completed -- at least that's my understanding of it.

MR GARRETT: In an ideal world, do you think it was appropriate that people who had expressed opposition to Jersey Bus should have played such a prominent rôle in the selection process?

MR CHILDS: I have never yet found an ideal world. In an ideal world, yes, but I have not yet found that situation.

MR GARRETT: Okay. You answered a number of questions in relation to the contract issues from my colleague and I just want to touch on a couple of specific issues. On 29th April 2002, Dennis Ord from Connex, in his final tender submission, gave an assurance that the width of the buses would meet the Island's current restrictions. In reality, they didn't.

MR CHILDS: Hmm.

MR GARRETT: When this was disclosed, did anybody take action against Connex? Did anybody hold them to their original tender and say "Hang on, you said in your tender submission you would and you haven't"? Did anybody penalise them?

MR CHILDS: I know nothing about that side of it whatever. The only aspect I will comment on there is that I believe Jersey Bus themselves had some relief from the 2.3 metre width rule because of hinges that projected at 90 degrees from the side of vehicles. I guess that was the same situation with the vehicles that Connex had.

MR GARRETT: However, they had not entered a tendering process and given those kind of assurances; whereas Dennis Ord did. He said "Our buses will comply local laws" and they didn't.

MR CHILDS: I can't comment on that, but I do know that much earlier in the process one or two operators thought the width restriction daft and wanted it lifted and, in fact, I suggested that we got a wider vehicle over because I was concerned because I ----

MR GARRETT: You have seen our roads?

MR CHILDS: I've driven a wide vehicle through your roads, but not a bus. I have driven buses. I used to do it as a student job and, believe me, when we had buses that were seven foot six wide and eight feet wide ... okay, if you have an eight foot wide bus, I know it's only **that**,

but **that** makes a hell of a difference in terms of manoeuvrability in tight spots and I understood the reason for the, and respected the reason for the, width limitation, but I can't comment on this business.

MR GARRETT: Has the performance of Connex been audited, to your knowledge?

MR CHILDS: Um ...

MR GARRETT: Against the contract, i.e., they were contracted to provide this service, what are they actually delivering?

MR CHILDS: Not by us. They do make returns every month or every four weeks to PSD on how their performance has been and my understanding is that it is very, very good indeed. They did negotiate as part of the process of post tender clarification a relaxation for the first three months, the bedding down period, and I understand that they make returns every month or every four weeks -- there are 13 four week periods of the year -- to the States, but, other than that, I've not been involved in the monitoring process. The monitoring process clearly needs to relate to the penalty points. It needs to include or take account of the penalty points régime in the conditions of contract, but I can't comment on the monitoring process.

MR GARRETT: Would you not accept that any kind of self-assessment process is likely to be biased in your own favour?

MR CHILDS: Well, of course it is and when I ran the Nottingham contracting arrangements I had a series of spot checks done by my own staff from time to time and in fact my own staff, me included, were detailed to, if they happened to be passing around the country and observed a contracted operation, just note whether it was doing what it should do. But it is a matter for the States post our involvement to do this in a proper way.

MR GARRETT: But you have no knowledge of such an exercise being conducted?

MR CHILDS: I'm not aware that the States have got a formal process by which they send out, say, inspectors or someone contracted to observe what is going on.

MR GARRETT: Okay.

MR CHILDS: I have used the buses on a number of occasions and found them to be absolutely spot on, but that is pure anecdotal.

MR GARRETT: Yes. I note from a letter that was sent to Connex on 3rd May that the award of the licence to Connex was conditional on six criteria being satisfied. Do you know what steps were taken to ensure that Connex satisfied criteria 5, which dealt with passenger capacity as distinct from bus numbers?

MR CHILDS: Um, this raises the issue of peak rate capacity again.

MR GARRETT: Hmm.

MR CHILDS: I don't know what happened immediately following that letter, but I do know that passenger capacity became a real issue later in the year when services had kicked in and it was found that people were being left behind in the first days of operation of peak journeys into St. Helier from various points outwith. I understand that, at that time, Connex were required to ensure that adequate capacity was provided through, presumably, the provision of duplicate vehicles since the initial vehicles didn't have adequate capacity.

MR GARRETT: We have heard evidence and suggestions that in fact there was no incentive. The way in which the contract was structured, there was no incentive really for Connex to provide an adequate bus service in the first year of operation. How would you comment on that?

MR CHILDS: Um, what sort of incentive, for example?

MR GARRETT: Because of year 2. It would have an impact on year 2 financing.

MR CHILDS: Ah, sorry, this is the bonus payment system?

MR GARRETT: Yes.

MR CHILDS: No, I think that is an acceptable comment on the system, but the engaging of a professional experienced operator, we would expect them to adhere to the conditions of contract and provide the level of service that is required to the letter of the contract. I agree that a less or an unscrupulous operator may not make great efforts to maximise revenue because, in minimising revenue, the uplift which they get a share of in productivity would be greater. But it's a not uncommon device. It is not an uncommon device to incorporate some incentive and my general brief was to ensure that there was some incentive for the operator to use its imagination to provide a better level of service and this was our device for doing that.

MR GARRETT: But, by laying on or failing to provide sufficient capacity in year one, for the

majority if not the whole of year one, but certainly the majority of year one, surely that is bound to impact on that issue?

MR CHILDS: Well, it is, but I wouldn't imagine an operator would simply fail to lay on extra capacity in order to suppress revenue because it carries with it other difficulties, other penalties through the other general contract conditions. It certainly could have that effect, but I don't think it is something ----

MR GARRETT: But if you then come back to the States and ask for £186,000, which they did, or over £200,000, it is a way of sort of balancing the books a bit, is it not, for year one?

MR CHILDS: Well, we didn't allow that, that claim for additional ----

MR GARRETT: This was for the shift allowance issue. That went through. They actually got -

MR CHILDS: But that was a separate issue. But, I mean ----

MR GARRETT: But it is a way of balancing the books.

MR CHILDS: They may have seen it that way. I think the issue over the small vehicles was simply a buying mistake on behalf of Connex, that it would have been marginally more expensive to buy another bay length in the vehicles, as it were, another slice of vehicle. At that time, you were talking about just a few thousand pounds on the cost of a vehicle.

MR GARRETT: May I refer you to an email that you generated on 9th July 2002, where there was discussion about the public transport manager? Do you know who that was? Was that actually adopted? Is there such a person as a public transport manager?

MR CHILDS: On behalf of the States?

MR GARRETT: Yes.

MR CHILDS: As I understand it, that was Mr Collier.

MR GARRETT: Right.

MR CHILDS: He took on the rôle of the public transport co-ordinator for the States.

MR GARRETT: You may want to refer to your notes, because, again, on the email of 9th July 2002, you set out some procedures and so forth in respect of changes to the omnibus service. There was an attachment, a technical note. **(Pause)**

MR CHILDS: It may be that you will have to pass me a copy because all my email documents have been filed.

MR GARRETT: It may be we can skip pass this for the time being and it will be something I can raise with Alan Muir. In that same email -- a slightly easier question -- under "*Key issues*", it was suggested that a register of licence variations should be maintained. Do you know if they did that?

MR CHILDS: Um, I don't think a register as such was maintained. That is something you need to ask Mr Collier. Certainly he is aware of service variations which were agreed, but I felt it was most important to properly document each and every request for a variation, where it had come from and how it panned out, because I think at that time I had made recommendations for the way in which applications to make changes of different severity were handled. If, for example, a minor variation, what we call a category A variation, came forward to perhaps correct an obviously strange piece of routeing which had no effect on passengers in terms of level of service provided, then I saw no reason why that sort of thing shouldn't have a delegated power placed on Mr Collier to fully implement it as soon as possible.

MR GARRETT: In your attachment you actually set out a sort of matrix chart.

MR CHILDS: Yes.

MR GARRETT: Setting out the way things should be done.

MR CHILDS: **This** is the one we are talking about, isn't it?

MR GARRETT: Yes.

MR CHILDS: Yes, but I don't know if that was implemented, if that was carried forward in that way.

MR GARRETT: If it wasn't, would you say that it substantially weakened the position of the department to actually keep track of what changes had been made, why they had been made, who instigated the change and so forth?

MR CHILDS: It is a very small network, but ultimately, as change upon change takes place, it is very difficult to hold everything there or in a series of piles of paper. Certainly in my old job in Nottinghamshire, where I had 500 or 600 contracts and a very large number of operators, it

was absolutely essential to keep very careful documentation and I know they are still there now, because I still work for the authority, and I had a system of suspended files -- nothing electronic because that carries with it problems of its own -- in which everything referring to a contract is stored and they are able to go back and pull off bits of information pretty accurately about what has been requested. It is surprising, frankly, how from members of the public particular issues come back to bite you and if you have not got sufficient records, then that is not helpful. So I think that should have been taken forward. I think, even by now, they have got a small ledger, but nevertheless it is good practice.

MR GARRETT: Okay. Taking you forwards to the next email that you generated which is of interest to me, it was 24th July 2002, where some concerns have been expressed by Connex and, in particular, they wanted financial confidentiality in terms of performance of service and so forth. I can understand their position, but, when you contrast that with the demands that were being made of Jersey Bus in relation to a total open book policy, can you reconcile the two approaches, confidentiality versus total open book demand?

MR CHILDS: I mean, I didn't make those requests of Jersey Bus.

MR GARRETT: No.

MR CHILDS: Public money is involved. I heard a comment made by your colleague about being a Jersey taxpayer (and this is an independent inquiry), but my own view is anything to do with the performance of a company in terms of services ought to be fully public. If there are accounting matters that should be in the public domain, then they should be accessible in the public domain and I am ... I can't recall the particular information or data that was the subject of the Connex correspondence at the time, but I ... they are a company that's used to working in the public sector all over the world. I think every single one of their operations is a public contract/franchise of some sort -- it is many thousands of buses -- and they must be used to the general open ... the general spirit of information availability and transparency that is abroad in the public domain, so I think that does surprise me. I didn't have that recollection until you reminded me of that.

MR GARRETT: I think it is interesting that a demand was made of Jersey Bus to provide

information on all manner of businesses with which they are involved, non-bus related businesses, and yet I can find no evidence that anybody has ever questioned whether or not the Jersey Bus ... that the Jersey Connex operation is in any way cross-subsidising any of the other activities.

MR CHILDS: Certainly the Connex empire or within the empire is ----

MR GARRETT: Massive.

MR CHILDS: Massive and embraces a wide range of not just transport provision but services.

All I can comment is that I really wasn't aware of the wider Diamond Jersey interests. I think I was broadly aware of them, but in all my dealings with Jersey Bus, I was dealing with Jersey Bus as an operation. I think links with the other coach operations may have been appropriate to consider, but frankly any work I did with Jersey Bus on the finances, as I explained, concerned the finances of the bus operation. I wouldn't even begin to understand wider accounting issues relating to the wider business, especially as it is not in the UK. I am surprised that it was considered, if indeed it was, necessary to go into that level of detail. It is certainly not a recommendation that I made. It is nothing whatever to do with Halcrow.

MR GARRETT: Do you know what arrangements have been put in place for Connex to notify the States about sort of complaints?

MR CHILDS: I understand there is a reporting procedure that exists between the operations of Connex at La Collette and Mr Collier, but, again, it is a detail which is not really the sort of thing that a company like mine needs to be providing advice on.

MR GARRETT: But it would have been part of your recommendation that that kind of process should be carried out?

MR CHILDS: Oh yes, yes, yes certainly, but we were, as I said, involved only on specific requests beyond about March 2002, and certainly we didn't put together a complete operating and reporting package for the States. It could have been done. Again, it's not rocket science. It is practice and documentation.

MR GARRETT: A final question on this particular aspect. How would you view the performance of Connex against the original Bus Strategy? Do you think that substantial progress has been made in achieving the objectives, those objectives that did exist, in relation to providing

a better service, more accessible to the public and so forth?

MR CHILDS: There was an immediate improvement in quality.

MR GARRETT: Yes, well, that is simply new buses?

MR CHILDS: Um, it allegedly was some driver training aspects too because they inherited staff already driving buses on the Island. Um, I've not been involved in the project since November 2003, because when this issue was raised we stopped working. I came over to make a report to the Committee in January of last year, but I don't know what's happened since. I'm ... one of the reasons the States went for Connex was their promise of bringing new forms of operation to perhaps lower demand parts of the Island and rationalising in that way, making service improvements in that way, and I understand that this hasn't happened, so I think I would have to say that I would be disappointed that the service hasn't developed in the way that we were promised it was going to be develop. I also understand that there have been a range of issues that may have interrupted that process, so that may be one explanation, but it is not my position. I don't mean to excuse that, but that is my interpretation.

MR GARRETT: Would you be surprised if some people were of the view that it's cost more and got worse?

MR CHILDS: Um, it has cost more. I'm not of the view that necessarily it's got worse, but I'm not really in a position to judge. I think what you've got to look at is what it would have cost had we continued under the old régime. I mean, it's apples and pears really as a comparison, but I can see that people who are perhaps not fully informed could quite ... could reach that conclusion.

MR GARRETT: I had drafted a substantial number of questions about the legitimacy of the claim submitted by Connex in relation to the provision of relief services and the shift allowance, but I think we have thrashed that through fairly well and it is not my intention to dwell on the matter. Moving forwards, there is a question about the accuracy of the information which was provided to members of the States. Did you contribute in any way to the production of a report which was submitted by Alan Muir on 24th March 2003, where he highlighted the sort of relief service and shift allowance issues or would he have simply drawn on the document that you had

previously submitted?

MR CHILDS: He would have drawn on the document, yes. I don't recall making any contribution. That was, again, beyond the point at which we began to withdraw from direct involvement.

MR GARRETT: Okay. Similarly, there was another report submitted on 9th December 2003, which was a summary of the first year of operation of Connex. Did you contribute in any way to that?

MR CHILDS: No, I didn't. That was very largely a Mike Collier product, I believe, but I was aware of it certainly.

MR GARRETT: Did you in any way contribute to the drafting of a letter which I think was drafted officially by Alan Muir -- it was probably about 12th May, although I don't think it was actually signed until the 19th -- commenting on the wage claim. In fact it was a letter from Maurice Dubras, Deputy Maurice Dubras, to Terry Le Sueur, President of Finance and Economics? Did you have a hand in that? Were you consulted at all on that?

MR CHILDS: Commenting on?

MR GARRETT: The wage claim issue.

MR CHILDS: Um, I don't recall being consulted on it.

MR GARRETT: Okay. In December 2003, Mr Muir wrote to you requesting clarification of details that Halcrow had provided to tenderers, particularly in regard to the Transport and General Workers' Union. Do you know what points he sought clarification on?

MR CHILDS: It was the fact that he believed he hadn't been copied in or informed about the full details of the wage claim.

MR GARRETT: And in response you told him that he had?

MR CHILDS: Yes, that our records showed that he had been copied in on the letter and that the tender packs had been left, copies of the tender packs which I referred to had been left with --

--

MR GARRETT: That is the brown envelopes?

MR CHILDS: Yes, yes.

MR GARRETT: Okay. What was his response?

MR CHILDS: His response?

MR GARRETT: Hmm.

MR CHILDS: He didn't ... he was of the belief that he hadn't received the documentation. He said he felt it was of such import that he would have realised had he got it.

MR GARRETT: It certainly was important.

MR CHILDS: It certainly was, yes, and we recognised that.

MR GARRETT: Were you consulted at all ... you will be aware that some difficult questions were raised by Senator Vibert in the States of the President of Public Services. Were you consulted at all on the drafting of responses to those?

MR CHILDS: I was aware of it simply because, in various guises, Senator Vibert contacted me and asked me to make comments or asked me to agree with statements and I was unable to. But, um, I wasn't directly involved in any drafting of responses, no.

MR GARRETT: Okay. You will be pleased to know that I am starting to come to the end of my questions. A couple of final ones. If you were embarking on this kind of project again in Jersey, what would you do differently?

MR CHILDS: Um, I think it would be helpful for the process to take longer. I think it would be helpful to have some form of operator information available to um potential tenderers. I would probably explore -- and I don't know the extent to which it was explored, but clearly there was some sort of falling out with Jersey Bus -- whether in fact there was a way of bringing Jersey Bus into the process without the need to go for tenders, but, of course, there was some sort of process gone into on that. I would have ... I don't accept the need for a project supremo or project plan. I think those mechanisms were adequately in place. I would hope that the contractor ... sorry, that the States would allow more time for the drafting of legislation and be able to turn around drafts of things like conditions of contract more quickly, but I can't comment on what other pressures officers were under at the time dealing with totally separate but equally pressing areas of legislation. There is never an ideal time scale. And I think, with retrospect (but that is wonderful), the issue of the wage claim could have been handled differently, but I have

explained why I believe my recommendations were the right ones at the time. But, I mean, it ... the process we went through is a reasonably well established process. It isn't unusual and I would go through a similar process again. Of course, we have learned lessons from it. We learn lessons from every single thing we do. If we don't, we are either negligent or stupid or both.

MR GARRETT: Or arrogant.

MR CHILDS: Or arrogant, yes. I approach every job as a new job with things to learn. I'm going through one at present.

MR GARRETT: Okay. This is really a final question. We have explored quite a number of -- in fact I have explored quite a number of -- issues with you, but do you want to make any statement to us, touching on issues that we've not covered that you think we should be aware of, or do you want to draw our attention to specific issues which you think we should investigate?

MR CHILDS: Um, it's ... I think you should be aware of the fact that, and not lose sight of the fact -- and I'm sure you haven't lost sight of it, but I would just make this point -- that it wasn't necessarily lowest tenderer wins. It was a matter of quality. Now, whether that quality has been delivered is a matter for debate, but there was a step change in quality on day one. So it was not necessarily lowest price wins. The pricing of the bids was within quite a small band, which I think was encouraging. The Connex bid was, I think, within a few thousand pounds of the Dunn-Line bid as it happens. It was substantially cheaper to at least the value, for example, of the shift payments of the Jersey Bus bid, but the decision was made on aspects other than price and that has always been the intention. Other than that, I don't ... I mean, it has been a very, very wide-ranging discussion and I don't think there is anything else I would want to put in at this stage.

MR GARRETT: Okay. Thank you from me.

MR SHEPHEARD: I have one or two questions that I want to put to you, Mr Childs, and I don't know if Mr Blackstone wants to come back on anything?

MR BLACKSTONE: I would like to come back on a few clarifications, yes.

MR SHEPHEARD: Well, having one eye on the clock, I think what we will do now is to adjourn for lunch and we will resume consideration of your evidence after lunch. I would ask

you to remember that you are still giving evidence and you should not discuss your evidence with anyone other than us three back here at two o'clock.

MR CHILDS: Sorry, what time? Two o'clock?

MR SHEPHEARD: Yes.

MR CHILDS: We have a travel constraint later in the afternoon which I think Mr Spence is aware of.

MR SHEPHEARD: Two o'clock.

MR CHILDS: Okay.

Adjourned until 2pm

MR SHEPHEARD: As we are all here, I think we can probably start. Mr Childs, I do have to remind you that you remain under oath. There are some matters that I wish to explore with you before Mr Blackstone asks you one or two supplemental questions that I know he wishes to pose. Were Halcrow at all involved in deciding on what basis the new operator was going to be remunerated?

MR CHILDS: Um, we recommended that the contract should be on a net cost basis; in other words, that the revenue would be banked with the States subject to a right of audit, and that they would be paid a twelfth or a thirteenth of the agreed annual operating cost. That was the principle. It was the same as London and that was the principle to be established quite early on in the process, but the precise mechanics of that were a matter between the States and the operator.

MR SHEPHEARD: Yes. It is not the precise mechanics that actually I'm interested in, but was there any particular reason why you recommended a net contract rather than a gross contract?

MR CHILDS: Um, because, er, it was, um ... the onus of risk of revenue is the key issue here and we had very imprecise information to forward to operators. It is often the case in this sort of situation that tenders start off in this way. Then, on retendering, they move to a situation in which the risk, if placed with the operator once the revenue situation ... once a pattern has become established. But it was for this reason that we went ahead on that basis.

MR SHEPHEARD: The information you had was imprecise in what way? I mean, did you at

that stage have available to you any information from Jersey Bus?

MR CHILDS: Sorry, it was non-existent. We had no information whatever on passenger numbers and revenue, and we considered this issue this morning. Don't forget that I had the ----

MR SHEPHEARD: You had information, but you were constrained from using it. Is that the position?

MR CHILDS: Well, absolutely. I had information in September 2001 as a result of those one-off negotiations, but that was to ... that was for that purpose and I signed a confidentiality agreement. It was not possible to get information, it was inappropriate to get information, on which to base, to have any other basis for repayment, for remuneration.

MR SHEPHEARD: Right. Basing the remuneration on a net contract rather than a gross contract, the net contract was used in London. Was it used anywhere else?

MR CHILDS: Um, some local authorities used net pricing. For example, I recommended it on new services such as park and ride, where it's often not possible to determine what the revenue would be and it's very dependent on things like car parking charges or availability of the destination, and those aren't always used to influence the use of a service. I understand that most start off contracts in overseas arrangements are similar on a net cost basis.

MR SHEPHEARD: Right.

MR CHILDS: Gross cost contracting is used in the UK where it's desirable for the same operator, network operator, to pick up little bits of additional work which may be infill journeys or extensions to journeys and so on and it's not a good idea in those situations. Often it's a good idea for there to be a different operator involved. It creates all sorts of ticketing difficulties, doesn't it?

MR SHEPHEARD: Right, okay. That's clear. I am very grateful, Mr Childs. Mr Blackstone?

MR BLACKSTONE: Mostly just quick clarifications. I will be very brief. We established, I think, earlier on that Jersey Bus was on the scene from 2000 or 2001.

MR CHILDS: That's something I wish to get back to Mr Spence on, because that ... frankly, that questioning, that very first questioning, threw me totally and I need to check. I have a recollection of correcting some dates in a document, so I would like to come back to you on that,

if I may?

MR BLACKSTONE: Yes. I'm surprised, because not only is that date of 2001 in the documents, but also in Mr Muir's file reference as obviously receiving the documents.

MR CHILDS: Is it? It may have been that we put a proposal forward in 2000 and it lay on the table for ... well, a year.

MR BLACKSTONE: Right. Anyway, just confirm if you were on board from 2000, you were not involved in the Bus Strategy in any way?

MR CHILDS: No, no, no.

MR BLACKSTONE: Thank you. Southern Vectis, you said, had been brought in as a stop gap. Can you remember when Southern Vectis were first involved?

MR CHILDS: Southern Vectis had been involved in Guernsey and they had been making overtures to the States for quite some time. I cannot give you precise dates, but there was certainly some debate between officers of the States and Southern Vectis to provide a stop gap service if indeed the Jersey Bus service came off the road for any reason, but, again, I didn't have any direct involvement in that.

MR BLACKSTONE: So it could have been some time back and they were approaching Jersey rather than vice versa?

MR CHILDS: Yes, and I think these discussions ... I think Mr Crowcroft was involved too in that. I think he had had separate meetings with Southern Vectis, but I have certainly got some copy correspondence dating from July/August 2001.

MR BLACKSTONE: Yes, we know that. Would you confirm that what you told us was that prior to or during the tendering process you were told both by Mr Muir and by Mr Crowcroft that relations between Public Services and Jersey Bus were not all that should be desired?

MR CHILDS: Yes. I was given that sort of information as really a background to the situation.

MR BLACKSTONE: Hmm hmm. You said there was a debate on whether the Public Services Department received *Bulletin 2*. Can you clarify that? When and where was that debate and what date?

MR CHILDS: Oh the debate was December 2003, when the issue of the pay award was raised

in the public arena by whoever. My ... well, what happened in February 2002, as I confirmed earlier, was that we were made aware very late in the day and Jersey Bus in fact not only faxed us a covering letter and the Jersey Bus pay claim, but they did make us aware by phone call or fax -- I can't remember -- that it was coming through. So they certainly were very helpful in ensuring that we knew it was on its way in, and at the time we reacted very, very quickly. If you look at the times on the faxed copies, you will find that we actually emailed Mr Macklin at his office with a copy of the pay claim before the time stated that we got it, so we seemed to have been in some sort of time machine situation. I think that is just fax clocks not being set properly in one place or another. But we copied all the operators in, as I explained earlier. But let me just clarify. It is my recollection that we didn't email the States with it at the time. We emailed the operators. But we did copy the States in on the letter that went out on the same day.

MR BLACKSTONE: That is fine. The famous meeting on 28th February, Jersey Bus and Roger Macklin.

MR CHILDS: Yes.

MR BLACKSTONE: You said this morning that you had been informed that Alan Muir was only present for part of that meeting.

MR CHILDS: Yes.

MR BLACKSTONE: Who gave you that information?

MR CHILDS: I think Mr Macklin told me, because he has an email which is from Mr Muir to himself, saying "Look, I'm not going to be able to make part of the meeting. I shall be there late." He has that with him and presumably you will ask him about that.

MR BLACKSTONE: Hmm. We will ask Mr Macklin about that.

MR CHILDS: Yes.

MR BLACKSTONE: The "beauty contest". You said that States members were suitably impressed with the Connex presentation.

MR CHILDS: Hmm hmm.

MR BLACKSTONE: Was this rather more sophisticated, full of slides, Powerpoint presentations and that sort of thing and offering buses on demand, disabled access and that all

that sort of side of it?

MR CHILDS: Let me be perfectly frank. Dennis Ord, who gave part of the presentation, was a very engaging character. He is a Geordie with a speech impediment, a stammer, but he pleaded for more time to take account of the time that would be lost for that, and I think that relaxed people. Mrs or Miss Morisson who was the UK, Connex Bus UK Managing Director, I believe. She gave a very impressive presentation, as did Harrison-Mee, who was the other very senior Connex director who was there. The Jersey Bus presentation was good. The Dunn-Line presentation, Dunn-Line had produced the most thorough in many ways bid documents, including complete schedules for every journey, which we analysed to make sure they got things covered, because they were putting in actually a slightly smaller fleet -- a two vehicle smaller fleet -- and we wanted to be sure that that could be done. Bob Dunn did their first presentation. His son, Scott, who is a very clever individual and very good, has a very strong regional English accent and I think people found it quite difficult to fully understand what he was on about. I don't think that helped them, but it was a good presentation. They were all good presentations.

MR BLACKSTONE: The point I am trying to make is were Connex offering extra services which they have since not come up with?

MR CHILDS: Yes.

MR BLACKSTONE: They were?

MR CHILDS: Yes. They implied that there could be demand responsive services and that they had the experience from other places to rationalise the network and so on.

MR BLACKSTONE: Very attractive to politicians.

MR CHILDS: Quite possibly.

MR BLACKSTONE: Thank you. I am sorry, I do have to revert to your report again of April 2003 and the shift allowance, just briefly.

MR CHILDS: Yes.

MR BLACKSTONE: You did say this morning that, on reflection, you might have changed the wording. The wording is "*The consultants' advice is that it would be reasonable for the States to meet the claim of the Connex position of £186,000.*" You did say that, looking at it now, you

would have included the words “on the assumption that Connex had not included the shift allowance in their bid”.

MR CHILDS: I was aware that Connex had stated in their bid document that they had taken the pay document into account in full. I still think there is a debate to be had about the difference between a claim and an award, but I think you must judge whether that is to be pursued and pursued with other people. When I came back into this issue and I had been detached from it for a period of months between that time and when it came live again in November '02, I had made an assumption -- and I regard myself as a pretty thorough, cautious individual -- I am assuming that must have been made because there had been some debate about Connex and the States on financial issues perhaps more generally. But they asked me to give some advice on reconsidering it and I think, with hindsight, it would have been a more appropriate form of wording to put in, but it was ... if the States had accepted that it hadn't been included, despite what the contract bid document said, it hadn't been included in their bid, then it was reasonable to meet it as an unforeseen cost.

I think you asked what we would do differently and I think actually going into a contracting situation with unresolved pay matters is not a desirable situation and we should consider whether that was recognised at the time by various parties. Perhaps at the time we should have issued clarification about how to deal with it -- you know, do include it or don't include it -- and if it came off, because it was a most unusual proposal in terms of a further 22% on costs, then it would have to be included as a reasonable extra for the States to deal with. But that didn't happen at the time and we know the consequences.

MR BLACKSTONE: Just one very final question, just yes or no. Based on what we have discussed this morning, if you had to rewrite that report, would you still advise that the payment should be made by the States?

MR CHILDS: I would alter the form of wording on assumptions, but, had it not been included, I would advise it. It was a reasonable thing to do.

MR BLACKSTONE: That is fine. Thank you.

MR SHEPHEARD: Mr Childs, we are very grateful to you for coming to Jersey to give

evidence to us. We know that you are under some time constraint today, so we thank you very much and I think we would now like to see Mr Macklin.

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