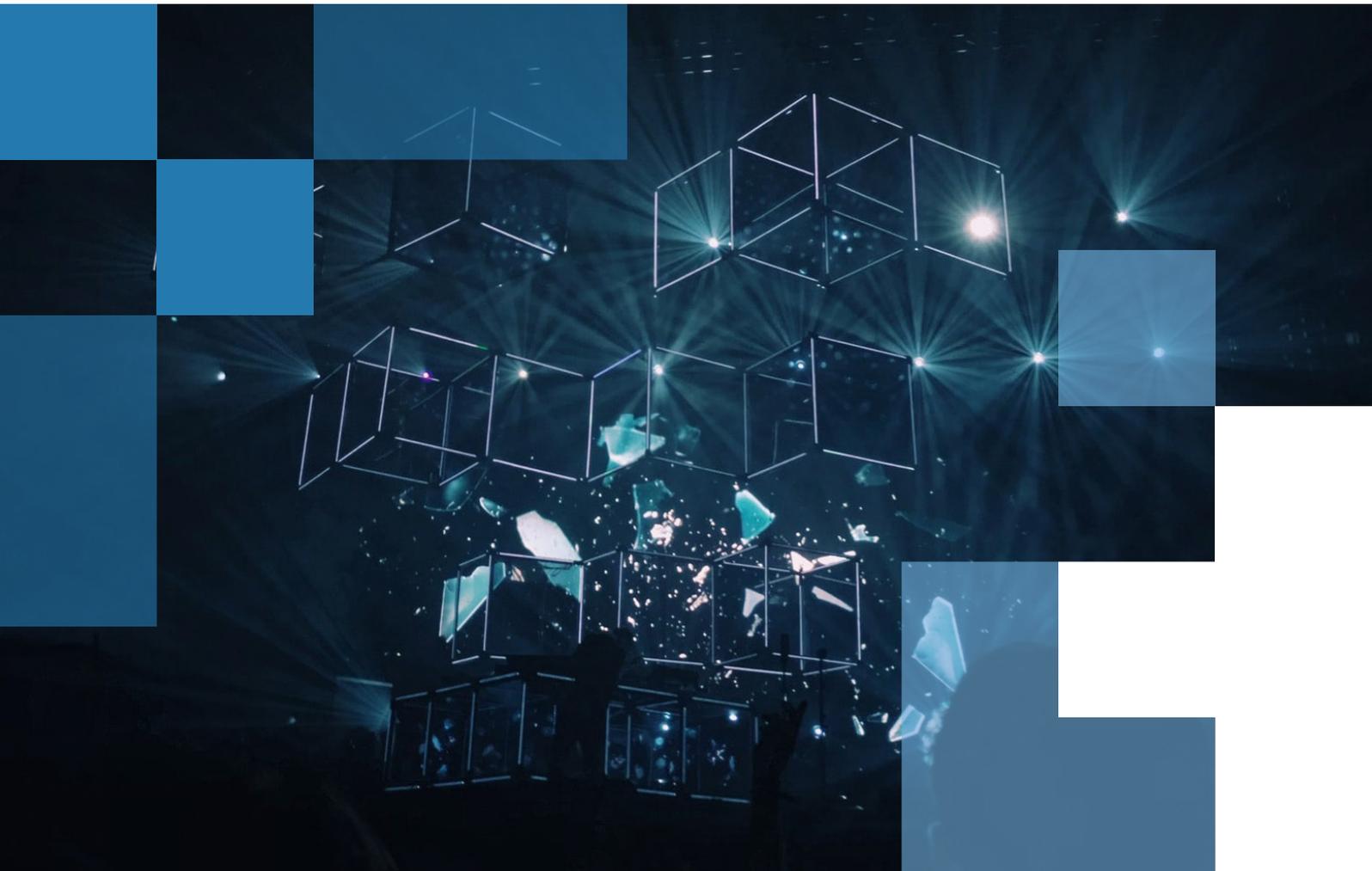




Infrastructure
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Authority

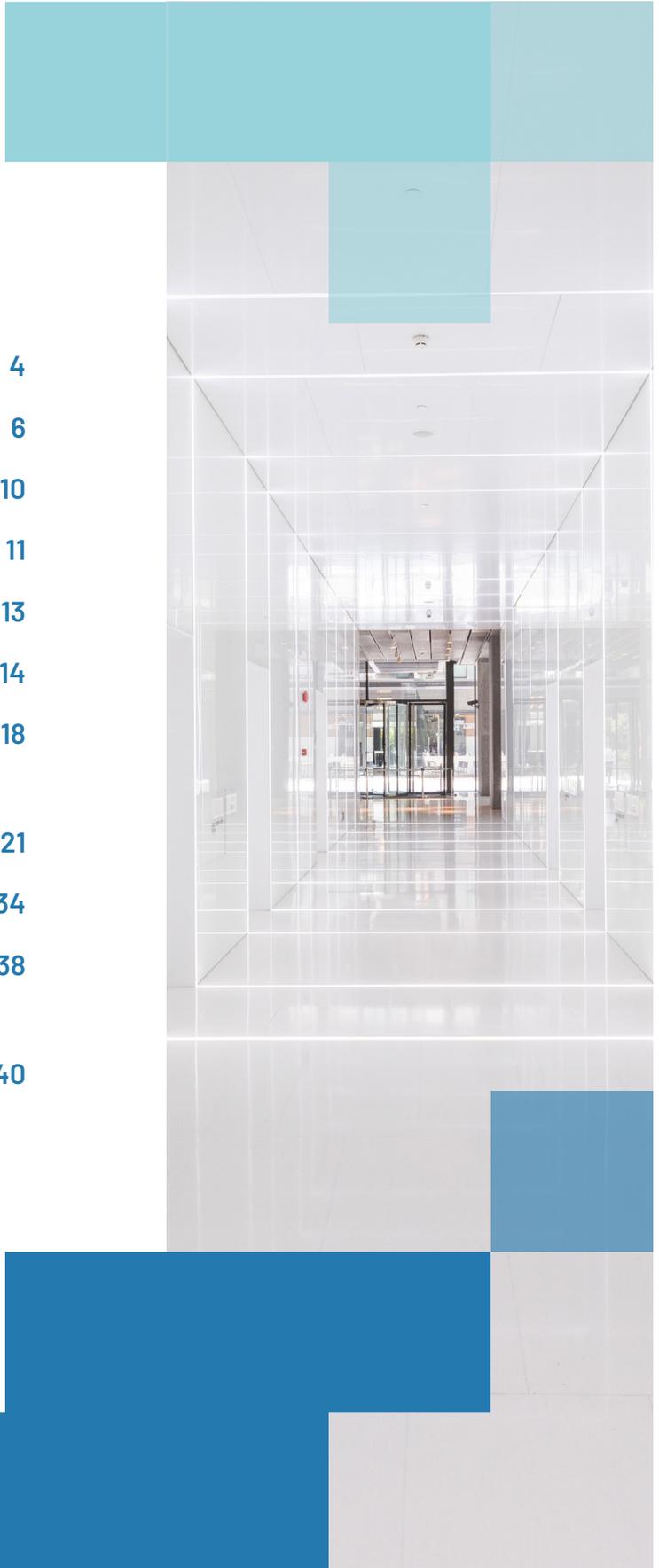
PFI Centre of Excellence



Phase 1 PFI **Expiry Health Checks Learnings Report**

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Foreword



Forward by Matthew Vickerstaff Deputy CEO & Head of Project Finance

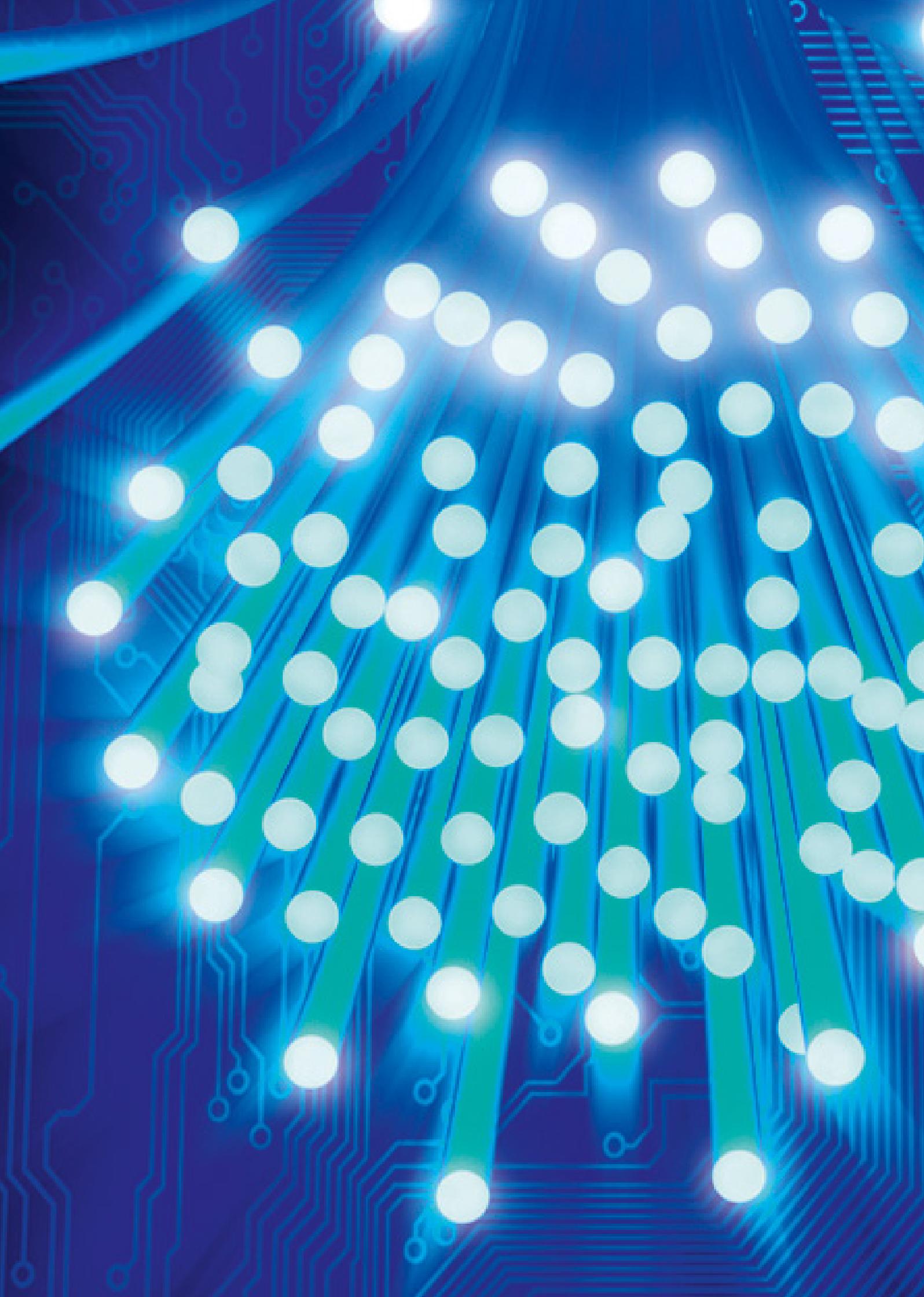
I am delighted to provide the forward to the PFI Centre of Excellence's analysis of the first 52 PFI Expiry Health Checks completed in 2021/22.

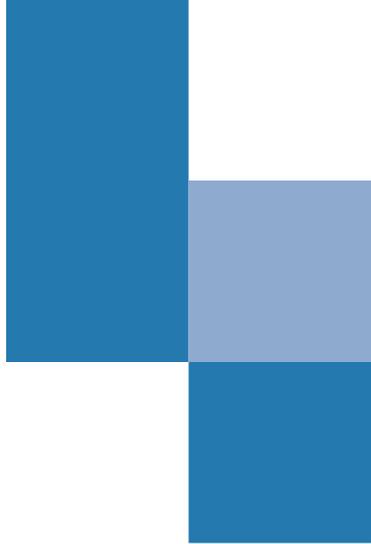
The PFI Centre of Excellence was established within the Infrastructure and Projects Authority in 2020 to build the capability, knowledge and tools needed within the public sector to manage their PFI contracts effectively during the operational and expiry phases, and to ensure effective engagement with the private sector.

PFI contracts provide significant public services including schools, hospitals, social care services, waste services, road, housing, prison and military capability. As such, it is vital that these contracts are effectively managed through their life to ensure the public gets the services they need and for which they are paying. This is equally important at expiry where significant value can be protected through effective expiry management and continuity of public services ensured.

The IPA offers all PFI projects within 7 years of expiry an initial expiry health check, with further reviews at 5 and 3 years. The health check involves a review by the IPA of key project documentation and a structured interview with the contracting authority. The review uses a diagnostic tool to help assess and benchmark the project's readiness for expiry. We believe it is essential to have a tool that provides an objective and transparent assessment of readiness for expiry. The analysis from these first 52 health checks provides some vital lessons for the public sector. As such, I encourage everyone involved in the management of PFI contracts to read this report and incorporate the lessons into their plans.

We are here to work with public and private sector bodies, so please do contact us for support and advice. We have published [Managing the Risks of PFI Contract Expiry](#) that sets out the support the IPA's PFI Centre of Excellence offers to contracting authorities, including guidance documents, training, and expert advice and support.





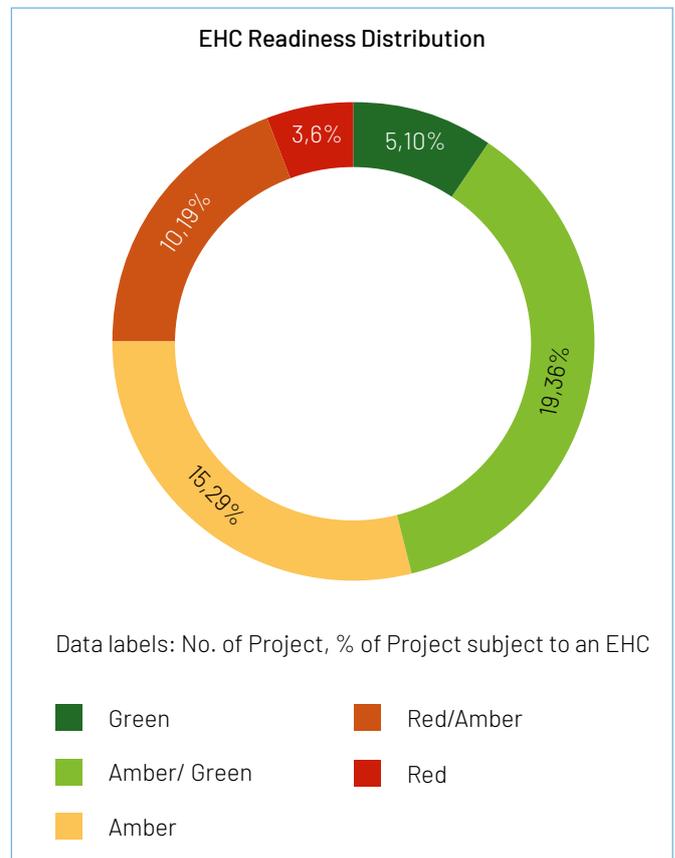
Executive Summary

The PFI Centre of Excellence (PFI CoE), established in 2020, is responsible for the PFI Contract Management Programme (PCMP) which aims to ensure that the public sector has the right capabilities, knowledge and tools to manage their PFI contracts effectively throughout the operational and expiry phases.

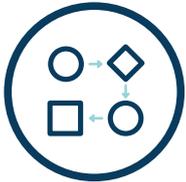
Expiry presents a significant risk to value for money and continuity of vital public services; and a significant opportunity to ensure assets instrumental in delivering essential public services are well maintained, resilient and fit for purpose beyond the term of the PFI contract.

To support preparation for expiry the PFI CoE has established a programme of Expiry Health Checks (EHCs) to support PFI Contracting Authorities (CAs) in assessing their readiness for expiry. The first phase of EHCs saw 52 projects reviewed between summer 2020 and spring 2021, and this equates to about 70% of the projects expiring between 2021 to 2027.

We found that the overall readiness for expiry of these 52 projects was Amber. There was, however, a significant underlying variance as shown in the chart. Indeed, 19 of the 21 projects expiring before the end of 2024 were rated Amber to Red.



The review also identified a number of themes and learnings that the PFI CoE will incorporate into ongoing work under the PCMP. These findings are summarised below, and detailed later in the report.



Ensure operational contracts are managed effectively as this supports transition to expiry



Contractual provisions for expiry vary across sectors particularly pre-SoPC



Market based residual value payments for asset transfer will add complexity



Preparation should start 7 years before expiry, or earlier for more complex projects



Set up well for expiry with appropriate governance, leadership, people and plans



Engage with the private sector early to shift the relationship for expiry, and understand differing priorities



Improve understanding of asset condition and data



Understand and clarify the terms and conditions of handback



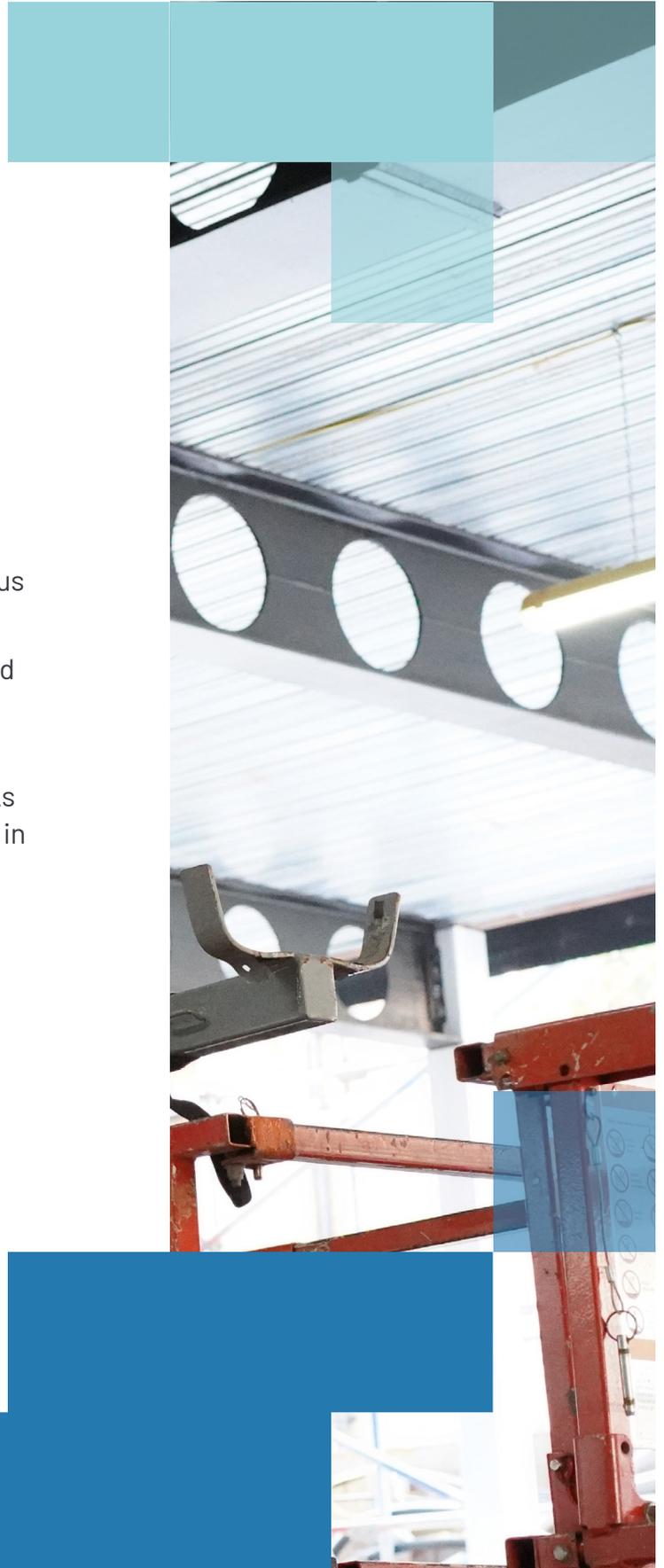
Build commercial strategies for expiry and future services

In response to the learnings identified in the evaluation of the 52 completed EHCs the IPA's PFI CoE has published [Managing the Risks of PFI Contract Expiry](#). This sets out our plans to embed the lessons learnt and how we will support CAs to develop and execute successful expiry projects. The key offerings in our support plan are:



The IPA is implementing and embedding these lessons by:

- Communicating these findings to the PCMP, and publishing these findings on [gov.uk](https://www.gov.uk) to ensure the widest possible audience.
- Revising the IPA's EHC and Assurance of Action Review processes to ensure they focus appropriately on the themes in this report.
- Developing the PFI's CoE expiry guidance and training to reflect the lessons identified.
- Developing a cadre of PFI experts who can be deployed to support departments and CAs who will be able to embed these key lessons in project expiry plans.



PFI Contract Management Programme

In 2020, under Ministerial direction, the IPA established the PFI Centre of Excellence (PFI CoE) to establish and lead the PFI Contract Management Programme (PCMP). The PCMP includes support to Contracting Authorities (CAs) approaching expiry by providing Expiry Health Checks (EHCs). This report sets out our findings from the first 52 reviews.

PFI Contract Management Programme

Vision

Contracting authorities have the capabilities, knowledge and tools they need to manage their PFI contracts effectively and to engage confidently with their private sector partners

Objectives

- Build PFI contract management capability and expertise across the public sector
- Ensure operational projects are being managed appropriately and that project performance is in line with contractual expectations
- Manage the exit from PFI contracts, ensuring continuity of public services and that contractual obligations are met

1. Managing the exit from PFI contracts

Managing the risks of contract expiry and ensuring value for money as contracts end

2. Improving Operational Performance

Improving the performance and efficiency of operational contracts

3. Building Capability

Building capability through systems learning, guidance and training

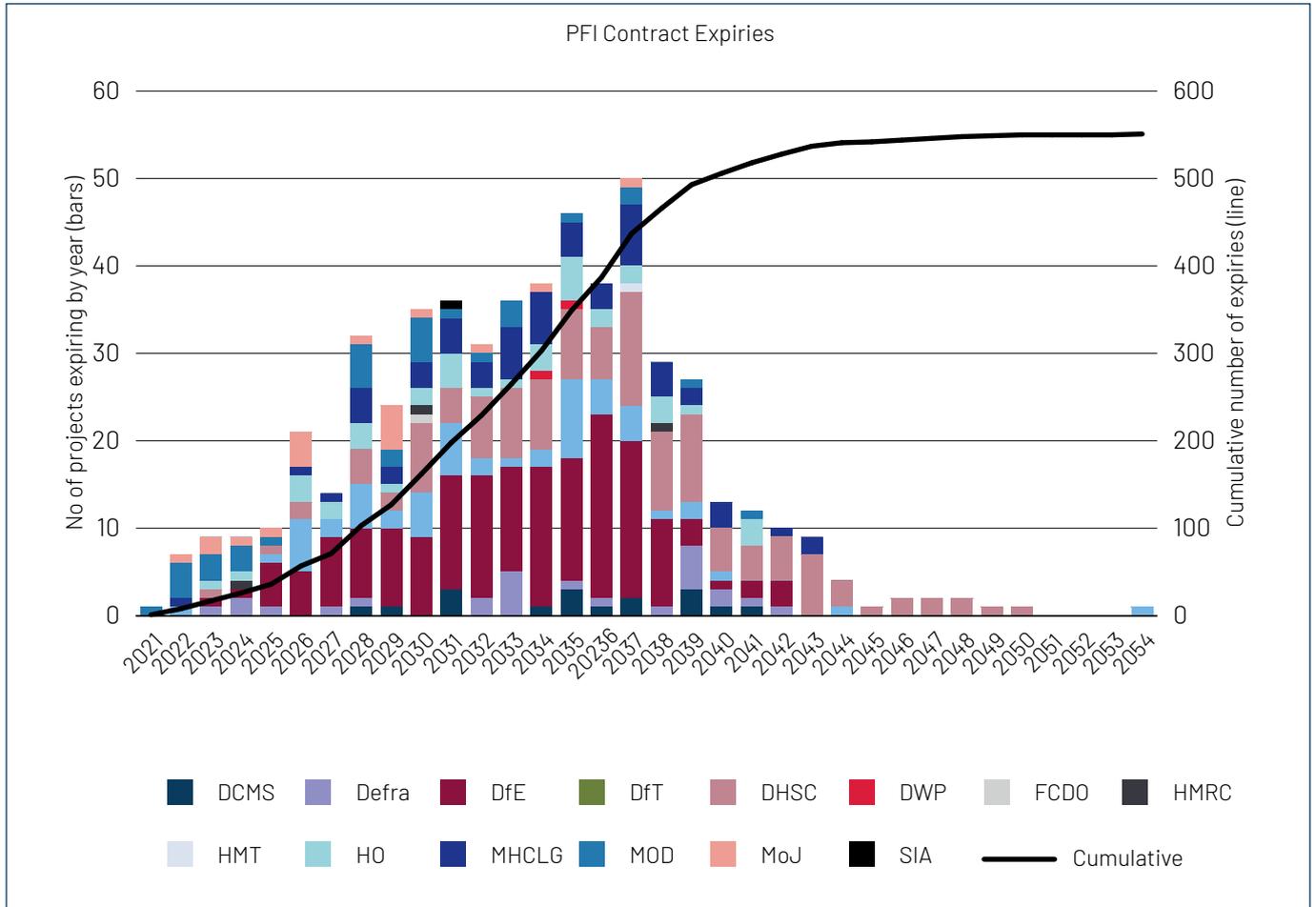
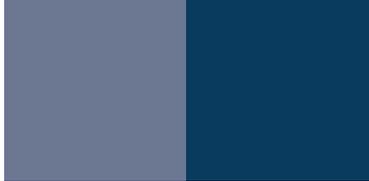
4. Advice & Support

Providing expert support and advice to departments and contracting authorities

PFI Expiry Profile

At 1 April 2021 there were 551 projects expiring in the period to 2054, noting that there are approximately a further 130 projects sponsored by devolved administrations which are outside the IPA's remit. As shown in the figure overleaf, the number of expiring projects increases significantly through this decade and peaks late in 2037.

This volume of projects expiring over the next two decades presents a challenge and an opportunity to secure value for money from the PFI and future service arrangements, and to ensure continuity of vital public services.



Period	No. of Expiries
2021-2030	162
2031-2040	344
2041-2050	44

Notes:

- Source date: [2019 PFI Data Return](#).
- We estimated 195 expiry dates using the last day of the financial year in which the final unitary charge payment is reported by the owning CA.
- Updated 21 expiry dates as a result of the EHCs.
- Devolved administration projects excluded as these are outside the IPA's remit.
- Projects terminated early are excluded.
- The last project expires in 2054 and accounts for the difference between the table and the total 551 projects.

PFI Expiry Health Check Process

Between summer 2020 and spring 2021 the PFI CoE undertook EHCs to assess the readiness of 52 projects. The EHCs were conducted using a standardised process (see below) to ensure consistency of assessment.

We did this buy:

- Reviewing key documents from CA.
- Conducting an interview with the CA.

To support this we used:

- A structured questionnaire set.
- An EHC tool to capture and assess the answers to determine the project's readiness for expiry in a consistent manner.

Reports were:

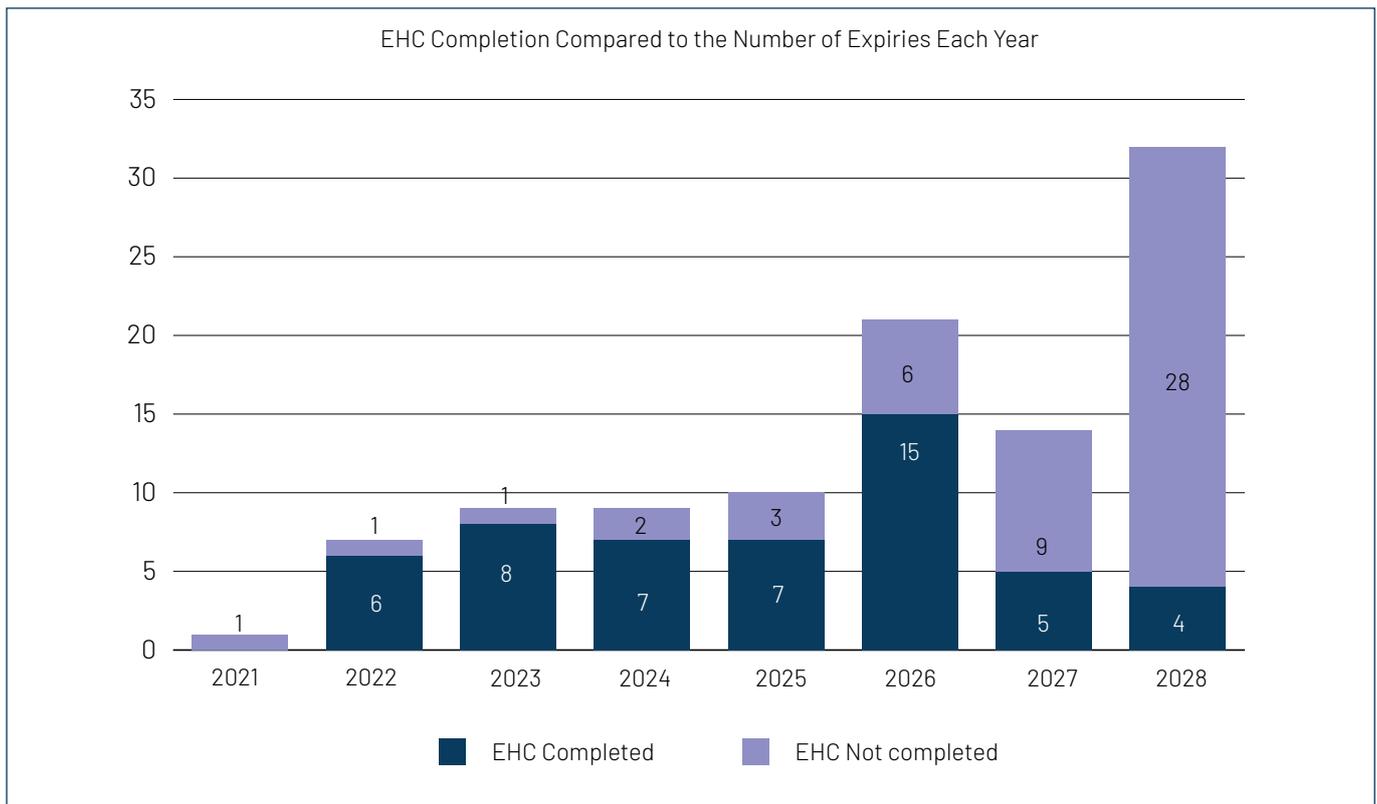
- Subject to internal PFI CoE peer review.
- Formally moderated at director level prior to release.

Reports provide:

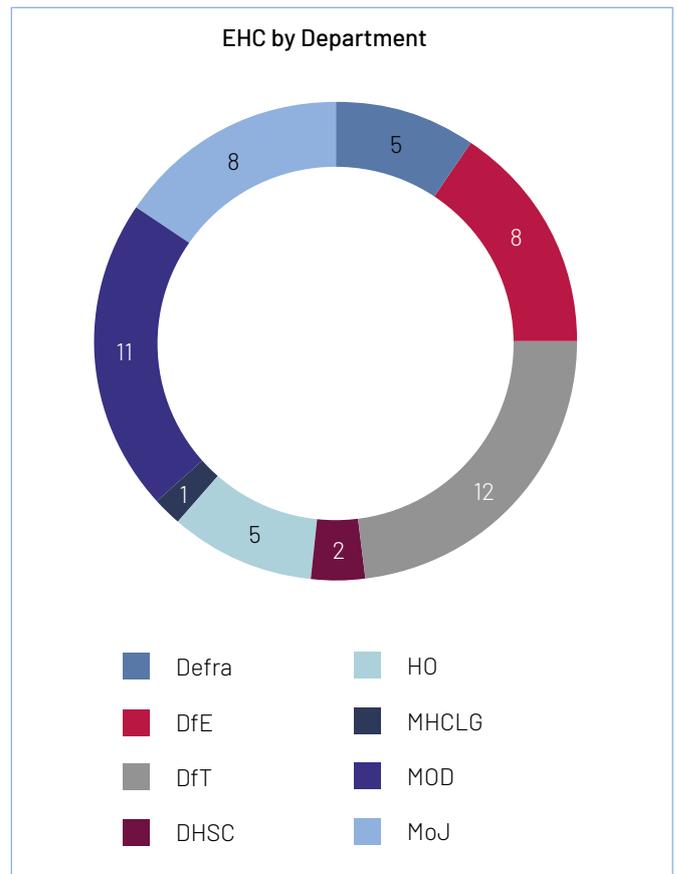
- An assessment of readiness for expiry.
- Recommend actions for the CA to improve readiness and reduce risk.
- Data to support wider learning across the PCMP.

Analysis of Reviewed Projects

The 52 projects subject to an EHC represent 9% of the 551 projects in the portfolio and nearly 70% of projects expiring before the end of 2027. These percentages are similar if the analysis is based on capital expenditure or unitary payment rather than number of contracts.



The 52 projects are not fully representative of the departmental mix, with 49 of the projects from 6 of the 14 PFI sponsoring departments. In particular, utilisation of PFI was adopted later, but extensively, by the health and education departments for hospitals and schools. Whilst the 52 projects are not fully representative of the whole portfolio it is anticipated that the general themes will have been captured in this analysis, though further sector specific themes may arise.

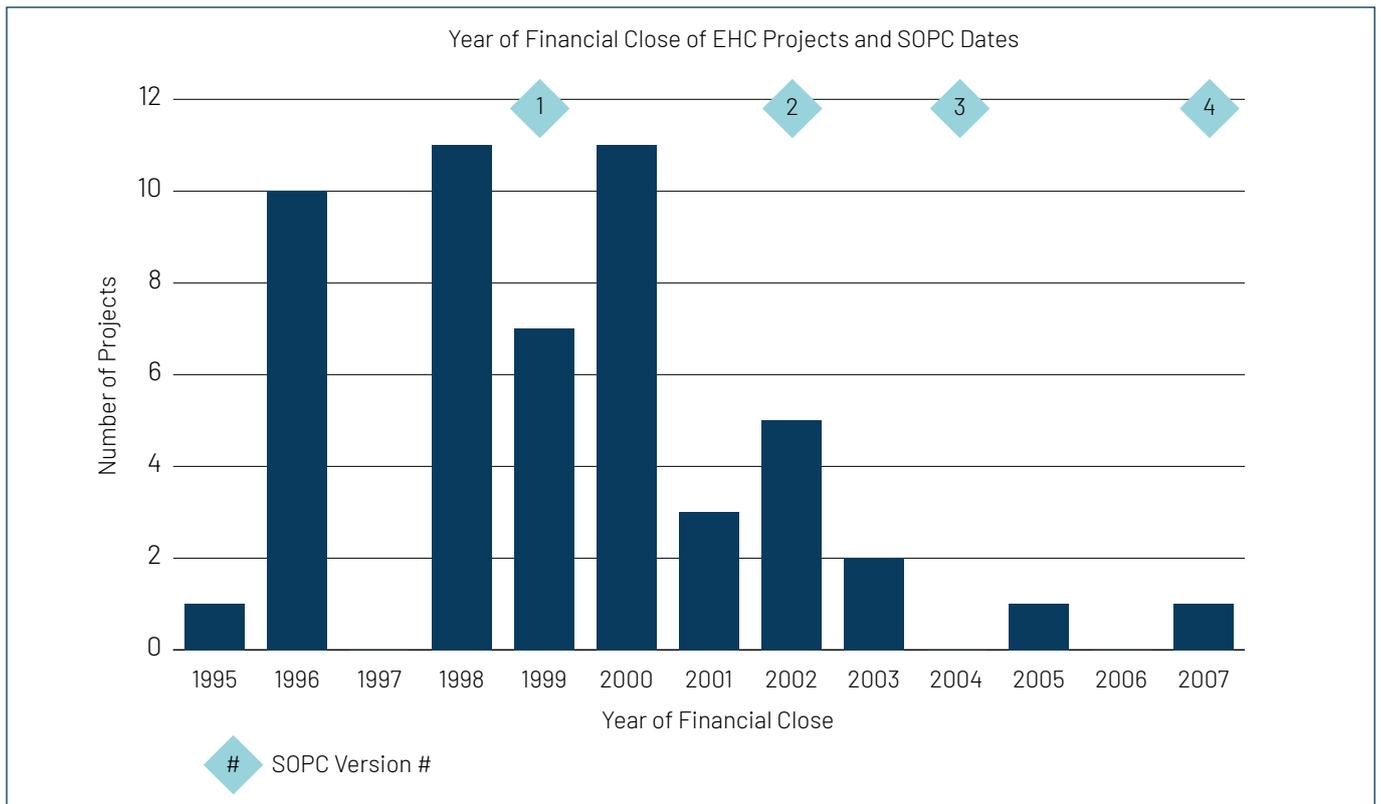


Department	% of Portfolio	% of EHC	Variance
DCMS	3.1%	0.0%	
Defra	4.5%	9.6%	
DfE	31.4%	15.4%	
DfT	10.2%	23.1%	
DHSC	22.5%	3.8%	
DWP	0.4%	0.0%	
FCDO	0.2%	0.0%	
HMRC	0.5%	0.0%	
HMT	0.2%	0.0%	
HO	6.9%	9.6%	
MHCLG	10.3%	1.9%	
MOD	6.2%	21.2%	
MoJ	3.4%	15.4%	
SIA	0.2%	0.0%	

Around 80% of projects are managed by local authorities. The reviewed projects are evenly split between those managed by central government departments and local authorities. The centrally managed projects are concentrated in the Ministry of Defence, Department for Transport and Ministry of Justice (prisons).

Department	Centre	LA	Total
Defra	0	5	5
DfE	0	8	8
DfT	9	3	12
DHSC	0	2	2
HO	0	5	5
MHCLG	0	1	1
MOD	11	0	11
MoJ	6	2	8
Total	26	26	52

It is also likely that many of the projects reviewed will not have benefited from the Standardisation of PFI Contracts (SoPC). As such, there is likely to be greater risk inherent in these contracts when compared to later contracts benefiting from standardised terms. The chart below compares the financial close data to the SoPC version publication dates.



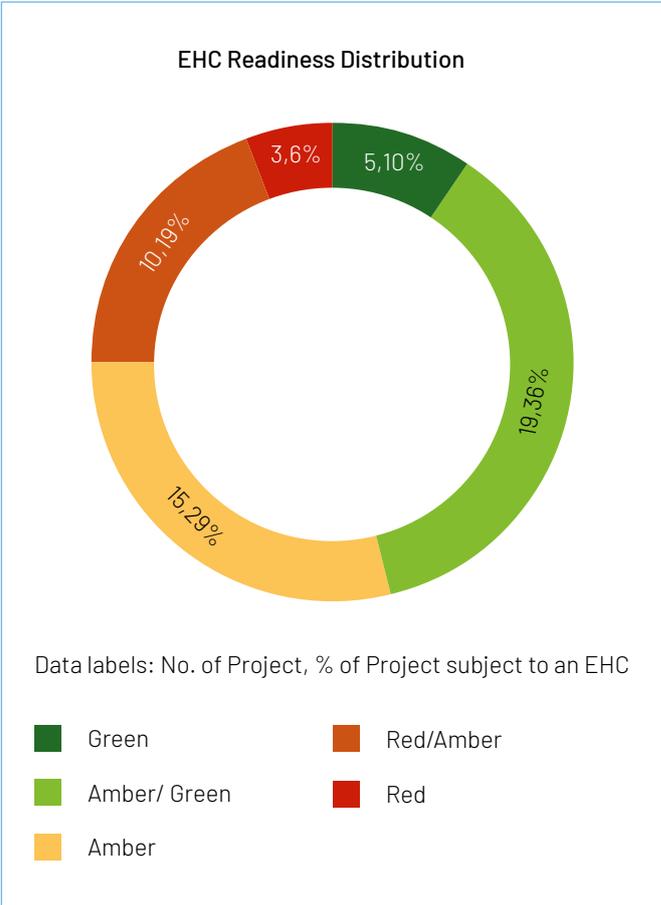


Finding from the 52 Expiry Health Checks

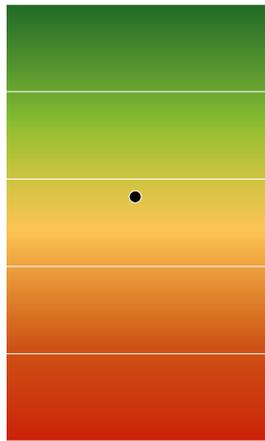
The readiness of each project was assessed using the following terminology.

Red	Red / Amber	Amber	Green / Amber	Green
Critical additional work required to achieve target readiness	Major additional work required to achieve target readiness	Moderate additional work required to achieve target readiness	Limited additional work required to achieve target readiness	At target readiness given the time to expiry

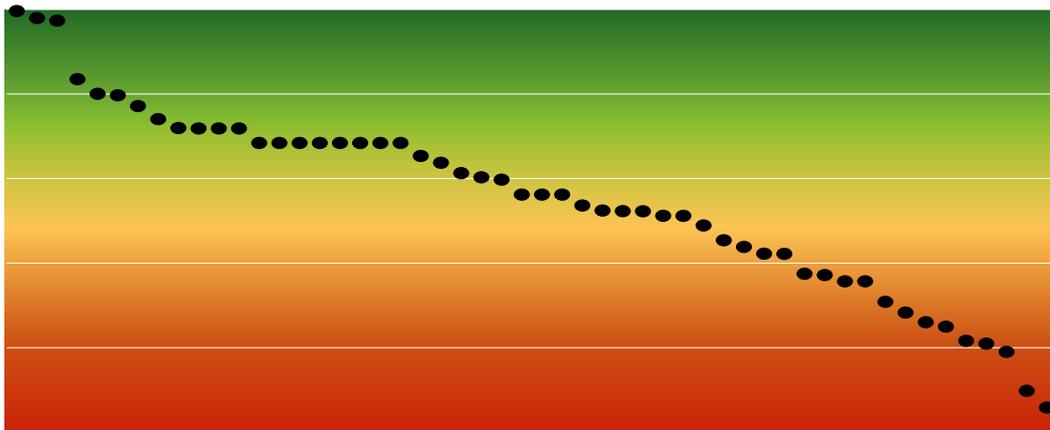
The overall averaged readiness for expiry of the 52 projects is Amber (see chart top of p19), however, this masks significant variance in project readiness, with 54% of projects being rated Amber to Red (see chart right, and middle of p19). The results also showed that projects closer to expiry were likely to have lower readiness than those projects further from expiry (see chart bottom of p19). This reflects our expectations that projects closer to expiry should have undertaken more expiry work.



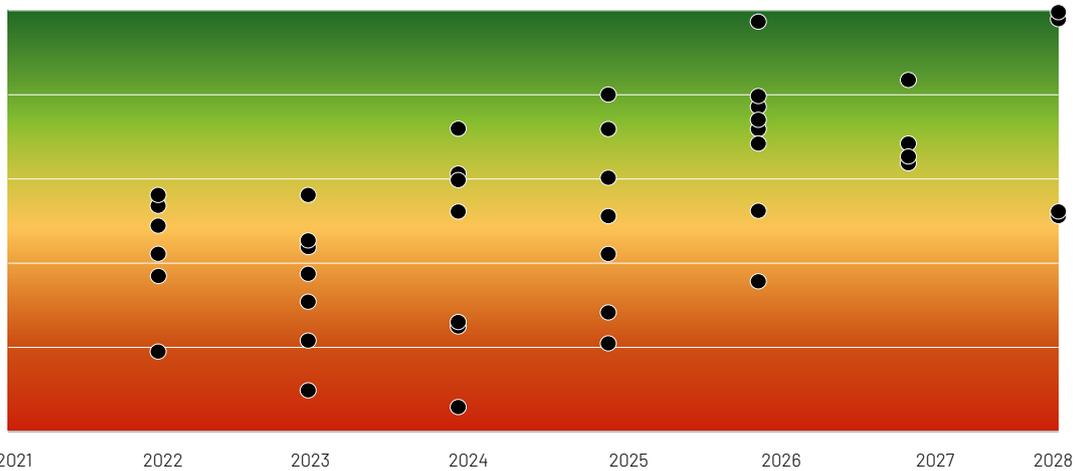
Averaged Readiness of the 52 Projects



EHC Readiness by Project



EHC Project Readiness by Time



The results also show that 19 of 21 projects expiring before the end of 2024 were assessed as Amber to Red, which indicates that there is an immediate need for action on these projects to minimise the loss of value and disruption to public services. The IPA's CoE is working with departments to improve these contracts' readiness for expiry. There are a number of factors causing the projects closer to expiry to be redder, however, a general theme is that these projects would have benefits from earlier expiry preparation. The EHC process will help kick-start expiry preparation for all projects 7 years before expiry.



Themes Emerging from Expiry Health Checks

This section reviews the responses to the structured EHC question set to identify emerging themes. Each question is paraphrased for presentational purposes, and each question's response is assessed similarly to the overall readiness criteria in the previous section.

Each questions' responses are shown on a percentage basis as some questions are not applicable to all projects. Where CAs are mentioned this should also be assumed to include the sponsoring department and local authority (where relevant).



Expiry Programme Management

The data says:

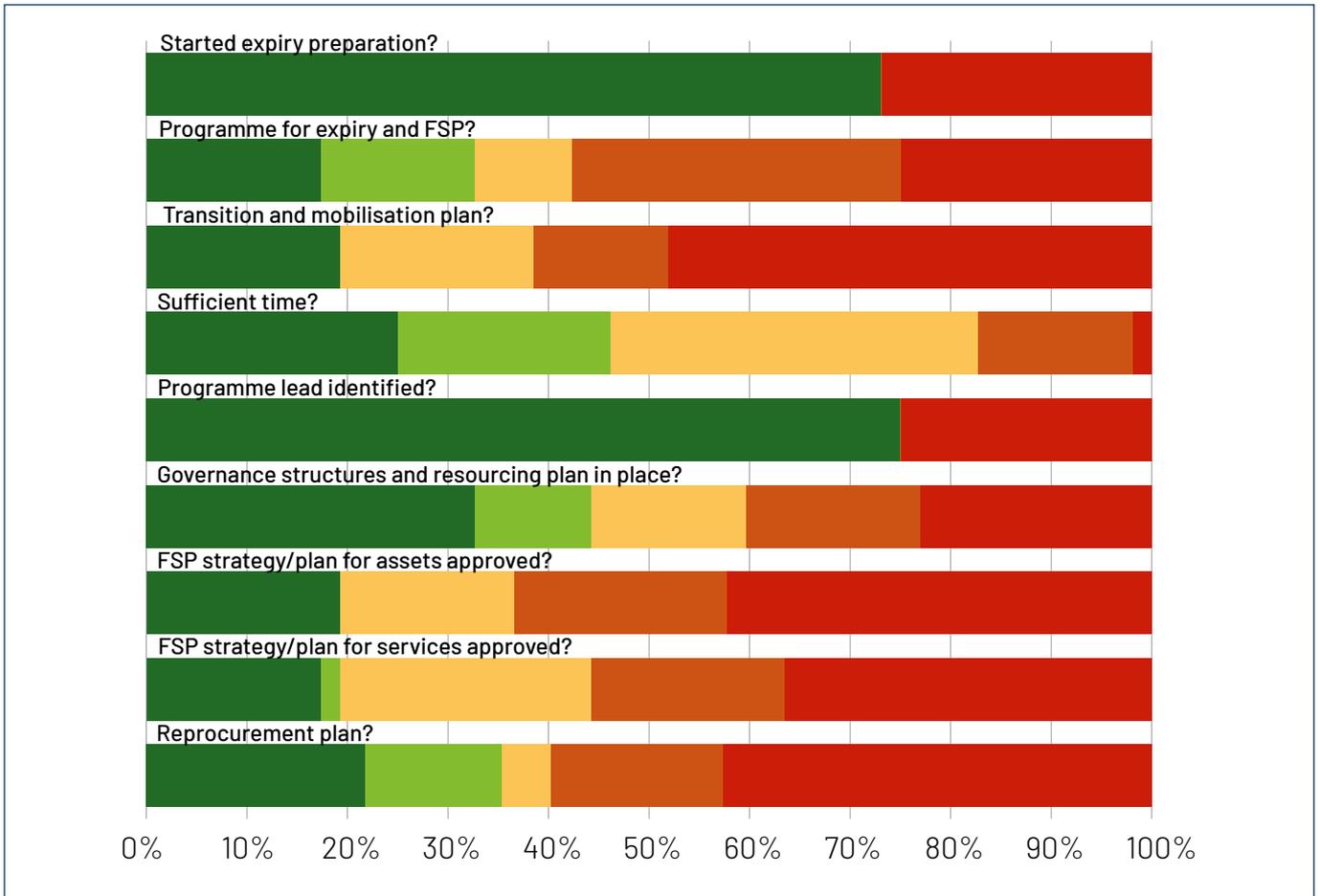
- c.25% projects have not started to prepared for expiry
- Only c.40% have a robust programme for expiry and future service provision
- c.25% of projects have no identified project lead for expiry
- c.55% have inadequate governance and resourcing plans for expiry
- c.80% of projects don't have robust and approved plans for expiry

We also found:

- Expiry is a complex process and this is not always recognised by CAs
- Expiry was not consistently captured and prioritised in business and resourcing plans

Learnings:

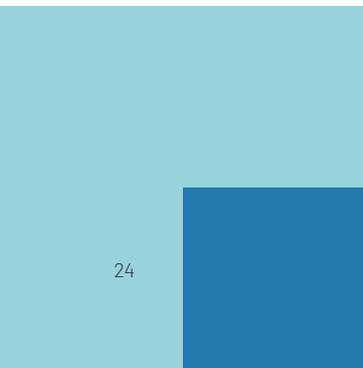
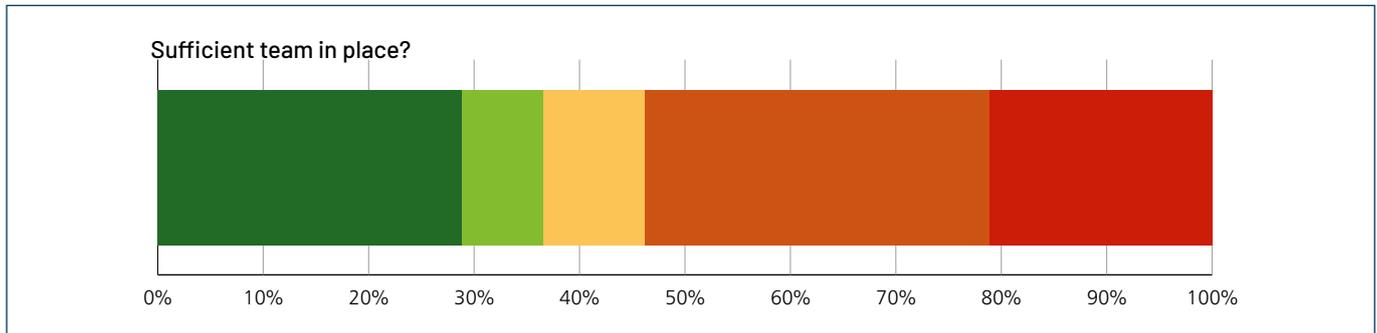
- Expiry needs to be incorporated into business and resourcing plans
- CAs should start expiry planning and preparation at least 7 years out
- CAs need to put in place clear expiry governance and leadership
- CAs should develop detailed and well-resourced plans
- CAs should integrate operational contract management, expiry, transition and future services work in their plan
- IPA should develop guidance to support CAs in planning for and managing expiry





Resourcing and Capability

The data says:	<ul style="list-style-type: none">• c.65% of projects reported that they did not have a sufficient team to manage expiry
We also found:	<ul style="list-style-type: none">• Insufficient people to manage the totality of operational contract management, expiry and future service provision• Insufficient access to the necessary skills and capabilities - particularly commercial and technical acumen• Where people were available they were typically focussed on future services and not expiry• Teams often cited the lack of people as limiting their ability to focus on expiry
Learnings:	<ul style="list-style-type: none">• CAs need to ensure that projects are properly resourced to manage the complex challenges of expiry• IPA need to consider how PFI expertise can be increased within the public sector and made accessible to CAs





Relationships

The data says:

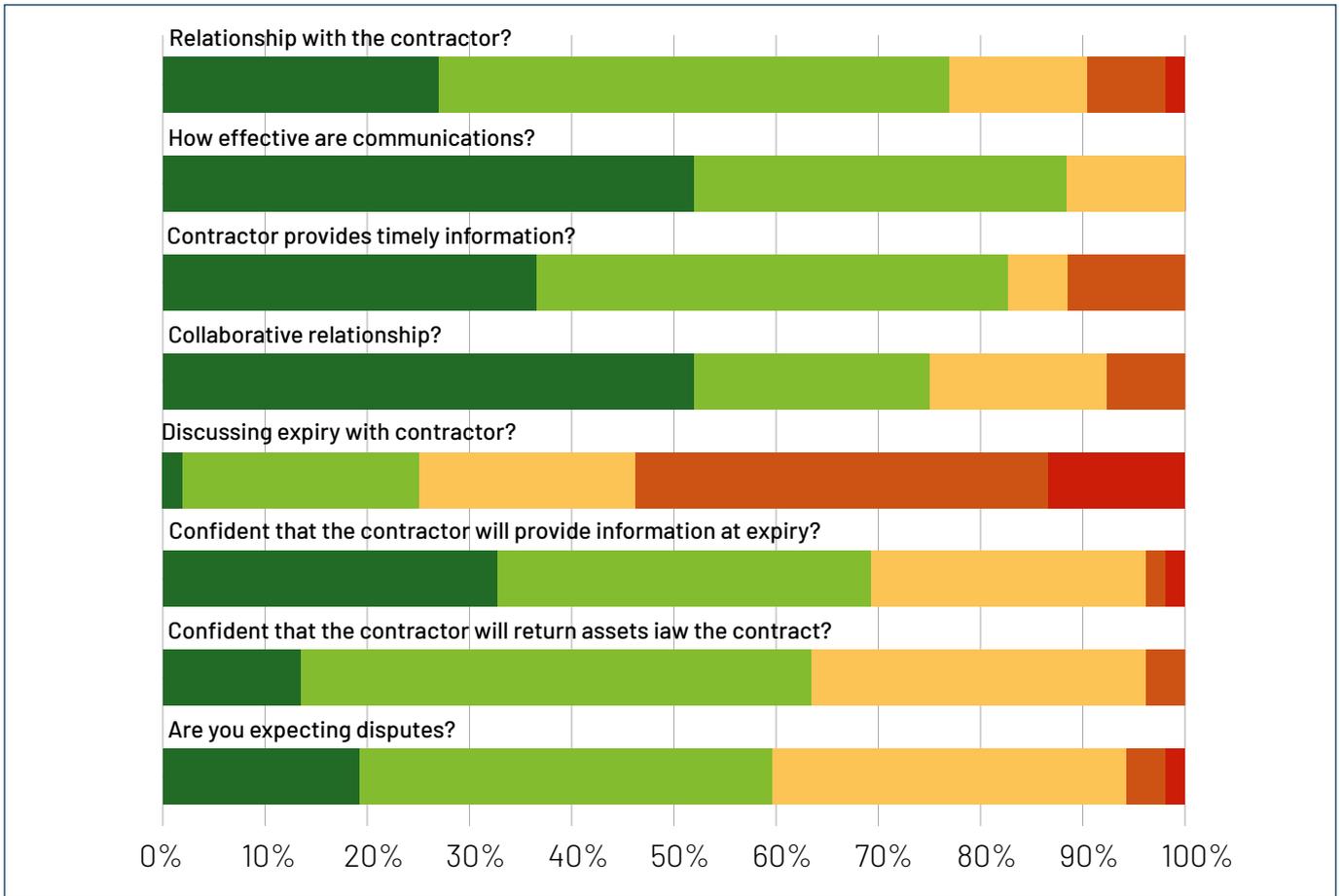
- For the projects reviewed, CAs said that current relationships are generally good:
 - 75-90% stated that relationships, communications and information provision are very good
 - c.75% indicated that the relationships were collaborative
- CAs' responses indicate that relationships were likely to weaken as they approach expiry, with c.40% believing that there was a real risk of disputes
- c.75% of CAs are having insufficient discussions with the private sector on expiry

We also found:

- Other sectors and projects may not report such good relationships with the private sector and future EHCs may provide more detailed information on this
- Many CAs believe that relationships can be imbalanced in the private sector's favour, and that this is linked to a lack of transparency of how the contract operates and performance information

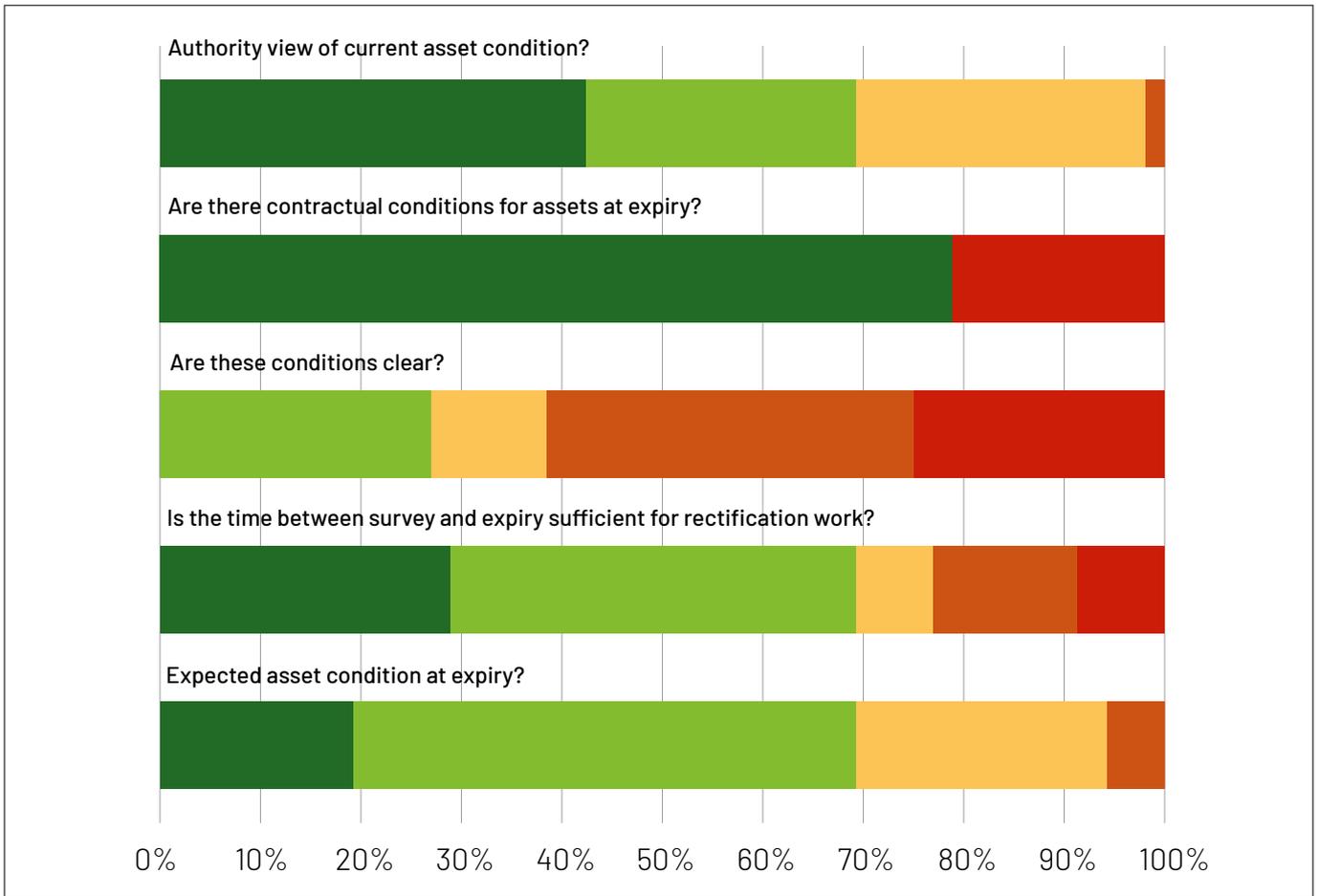
Learnings:

- CAs need to maintain and strengthen relationships to avoid the pressures of expiry causing issues/ disputes
- CAs need to engage earlier with the private sector on expiry to ensure sufficient time to address issues, gather data and information
- IPA needs to progress its market engagement activity and develop a public-private protocol on managing expiry including dispute resolution
- IPA needs to address this public/ private sector relationship imbalance through market engagement and protocols as necessary



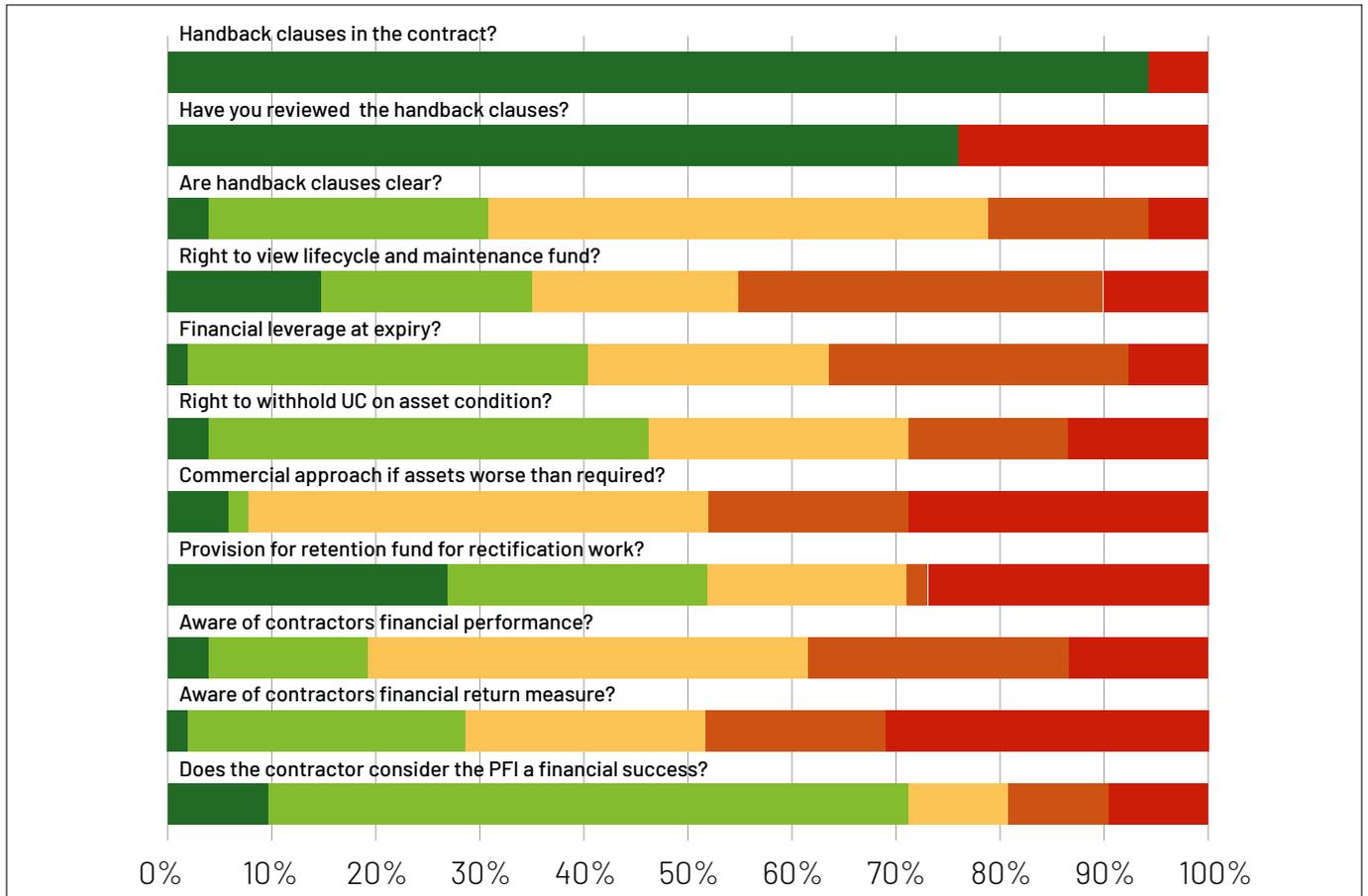
Asset Condition

<p>The data says:</p>	<ul style="list-style-type: none"> • CAs believe current asset condition to be largely good and that it will largely be in the same position at expiry, but this is tempered by our assessment of the level of CAs understanding of condition (see “We also found”) • c.80% of contracts have asset condition requirements at expiry • However, c.70% believe that these asset condition terms are not clear - yet this lack of clarity is in contrast to the low anticipation of disputes • c.70% of CAs subject to an EHC believe there was sufficient time between survey and expiry for asset rectification works to be completed
<p>We also found:</p>	<ul style="list-style-type: none"> • Asset condition would appear to be a lower risk than we anticipated • We believe there is a risk that CAs’ views on current asset condition were insufficiently informed by asset surveys and data, and that CAs may be comparing assets condition with their typically poorer non-PFI estate • CAs may be overly optimistic about the time between surveys and expiry, particularly if disputes arise about the required asset condition and scope of rectification
<p>Learnings:</p>	<ul style="list-style-type: none"> • CAs should seeks more data to support asset condition • CAs should engage early with the private sector to clarify asset condition requirements at expiry • Condition surveys may need to be undertaken earlier than specified to allow time for remedial works and resolution of potential disputes • IPA should develop advice and guidance on asset condition



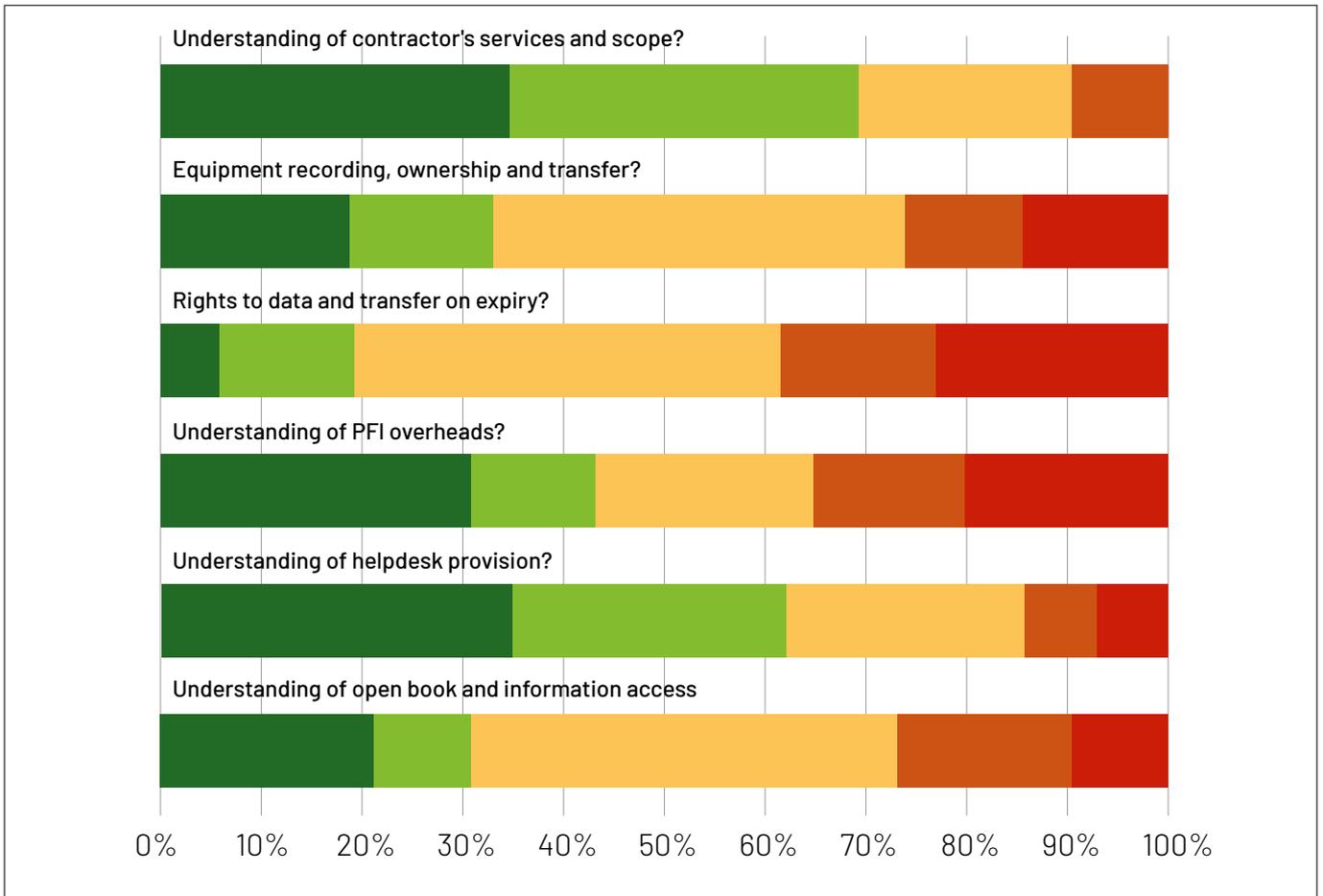
Commercial Position

<p>The data says:</p>	<ul style="list-style-type: none"> • Contract drafting for expiry lacks clarity in c.70% of contracts • There are limited rights and leverage at expiry • CAs do not fully understand the contractor’s financial performance and drivers at expiry
<p>We also found:</p>	<ul style="list-style-type: none"> • CAs do not have detailed understanding of their contracts including their rights and contractors’ obligations at expiry • CAs are generally optimistic about private sector engagement, but did not understand consistently the changing private sector drivers at expiry • As a result, the commercial approach to expiry was frequently insufficiently developed and often reactive • This is connected to the lack of skilled resource in projects
<p>Learnings:</p>	<ul style="list-style-type: none"> • CAs need to understand the contractual rights and obligations better, noting that earlier contracts do not benefit from SoPC standardisation • CAs need to develop detailed and proactive commercial strategies • CAs need to appraise themselves of the private sectors drivers • IPA needs to address the lack of commercial acumen across projects and support commercial strategies where relevant



Future Services

The data says:	<ul style="list-style-type: none">• CAs have limited understanding of assets and services• They don't fully understand their rights to information
We also found:	<ul style="list-style-type: none">• There was a significant number of CAs with no clear future services strategy• The timing of the release of information (e.g. asset and service data) in many contracts is too late for future services procurement• Planning for future services is often too little and too late to inform the expiry process (in one sector there was a large reliance on extensions/ interim contracts)• Some CAs do not have sufficient resources or skills to manage the procurement of future services
Learnings:	<ul style="list-style-type: none">• CAs must ensure future services strategies and plans are developed early and integrated with operational contract management and expiry, this includes aligning timelines for the provision of vital information with procurement activity• CAs must do more to understand the service provision and costs of the PFI contract to inform future service provision



General Themes

In addition, two general themes were identified:

We also found:

- Some CAs do not have access to core information e.g. full contract documentation, up-to-date financial models, and asset registers
- Some CAs do not fully understand the contract terms and conditions and did not having access to data/ information necessary to manage the contract effectively
- Both themes impacted on their ability to plan for and manage expiry

Learnings:

- IPA need incorporate these learning into other areas of the PCMP to support effective operational contract management
- Departments and CAs should improve contract understanding and review contract management arrangements

Lessons for PFI Expiry

The EHC process has identified a number of themes across the projects which have been fed back into the PCMP and to departments. These are split between departments/CAs and the IPA, with the recommended owner for implementing each learning identified.

Learnings for Departments and Contracting Authorities

	Learning	Owner
1	Understand your contract and its performance through the operational phase to be better placed for expiry	PFI Senior Responsible Owner (SRO) and contract management team
2	Ensure that PFI expiry, as a major contractual process, is captured and prioritised within business and resourcing plans	Department/ LA (via the Audit and Risk Committee)
3	Start preparing for expiry at least 7 years out, potentially longer for complex PFIs or future service arrangements	PFI expiry SRO
4	Make sure you have appropriate governance and leadership in place to manage expiry, noting that this may be different to the business as usual arrangements	PFI expiry SRO
5	Put in place detailed and resourced plans that integrate operational contract management, expiry, transition and future services provision to enable robust management of the programme of work	PFI expiry SRO
6	Recruit sufficient and appropriately skilled people to enhance the contract management team for expiry	PFI expiry SRO
7	Engage with the private sector early on expiry. Seek to adjust your relationship for expiry and build a good understanding of their drivers at expiry.	PFI expiry SRO
8	Invest in understanding the condition of your assets and quality of data against the contract requirements	PFI expiry SRO
9	Understand the contract expiry terms Build positive commercial strategies to meet your aims and reflect private sector drivers	PFI expiry SRO
10	Align your future services activity with expiry & operational contract management; and inform future service provision with data from the PFI	PFI expiry SRO

Learnings for the PCMP

	Learning	Owner
1	Incorporate learnings from the review into the wider PCMP activity	IPA PFI CoE
2	Develop expiry guidance to support CAs in planning and executing expiry consistently and effectively	IPA PFI CoE
3	Build capability across the public sector through training, and increase public sector expertise with a focus on commercial acumen to support expiry	IPA PFI CoE
4	Expand private sector engagement on PFI expiry including the development of a public-private PFI sector protocol on managing expiry including dispute resolution	IPA PFI CoE



Support to Contracting Authorities

The learnings identified in this report reconfirmed the need for the centre of government to play an active role in supporting government departments and CAs in managing PFI expiry. In August 2021, the IPA's PFI CoE set out its plans to provide expiry support in [Managing the Risks of PFI Contract Expiry](#). The key offerings in our Support Plan are:

1

Expiry Health Checks

The IPA will conduct EHCs on all projects at 7, 5 and 3 years from expiry to:

- Assess the readiness of the project for expiry.
- Provide advice to CA on how to improve their readiness for expiry.
- Identify lessons across the PFI portfolio to be integrated into future activity.

2

Assurance of Action Reviews (AARs)

Projects rated as Red or Red/Amber, or where the expiry risks are high, will be supported with an AAR, typically within 6 months of the EHC. The review will assess whether the actions taken have materially improved their readiness for expiry. AARs are a repeatable process designed to assist CAs in delivering a successful expiry of their PFI.

3

Expiry Guidance

Expiry guidance will be published in early 2022 and will reflect the practical lessons and learnings from the EHCs. The guidance is intended to be supported by sector guidance developed by departments, as appropriate. The guidance will be supported by toolkits, for example check-lists and help-sheets. This support will be evolved over time reflecting our growing experience of expiry.

4

Expiry Training

Expiry training is being developed and due to be launched late 2021.

5

Private Sector Engagement

The IPA is actively involved in structured engagement on expiry with the market including investors, SPV managers and service providers, and with wider participants such as trade bodies, consultants and advisors. The primary aim is to share knowledge and build better relationships on behalf of CAs, recognising the private sector works across multiple sectors and projects.

6

Expiry Protocol

A public-private sector protocol is under development and an initial draft is due to be shared with the private sector in early 2022 for discussion. The protocol will set out the behaviours expected of the public and private sector at expiry. It will be built on the principles of collaborative working, transparency, effective resolution of disputes and sharing lessons and best practice.

7

Expiry Advice

IPA will provide strategic advice and support to CAs on PFI expiry. In addition, the IPA is working closely with Local Partnerships, Crown Commercial Services and the Complex Transactions Team to ensure practical support is available to CAs.

8

Systems Learning & Improvement

Underpinning the IPA's PCMP is collaboration between the centre, departments and functions. A strong emphasis is placed on systems learning and information sharing to assist departments to recognise sector specific PFI expiry challenges and to formulate appropriate departmental responses.

Implementing and Embedding these Lessons

The IPA has initiated a number of actions to support the implementation of these lessons, and to ensure they are embedded in the ongoing public sector approach to expiry.

Communicating these lessons across the public sector

- The lessons identified in this report have already been shared with departments, so that they can take early action on embedding the lessons in their developing expiry plans and activity.
- The publication of this report on [gov.uk](https://www.gov.uk) to make sure this important resource is available to the widest audience.
- The PCMP Oversight Committee has written to permanent secretaries to stress the importance of active management of PFI expiry. This includes appropriate oversight from departmental audit and risk committees, the need to manage expiry as a portfolio and to ensure sufficient and appropriate resource and leadership is in place.

Developing the EHC and AARs process

- We are already conducting AARs on projects with Red or Red/Amber ratings to support CAs in improving their readiness. This will be a core part of future activity.
- We have already implemented changes for the EHCs and AARs being undertaken in FY21/22. This includes refining a number of our questions to sharpen focus on learnings.
- These processes will also undergo a further refinement for FY22/23 to align fully with our developing expiry guidance, fully embed the lessons in this report, and increase our ability to interpret our findings.

Development of guidance and training

- Our guidance documentation is currently under development and will incorporate the key findings from the EHCs. This is due for publication early 2022.
- The expiry training module has drawn on the lessons from the initial 52 EHCs and is now being prepared for launch in late 2021.
- The guidance and training will be reviewed regularly to ensure they reflect the learnings as EHCs and AARs are completed.

Provide advice and support

- The IPA's capability to advise and assist departments and CAs is currently being grown to support the expected increase in demand as the pace of PFI expiry grows in the coming years. This will work in conjunction with department and CAs own plans to ensure sufficient expertise is available to support expiry management. In addition, it will develop a cadre of PFI experts who will support the sharing of best practice.

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