



Government  
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# LONGER TERM CONTRACTING PROGRAMMES, PROJECTS AND PORTFOLIOS IN CONSTRUCTION

Guidance Note

September 2022

# Contents

<b>Policy Context</b>	<b>2</b>
Overview	2
Dissemination	2
Contact	2
<b>Where it could be effective and provide opportunities for Modern Methods of Construction and enhanced productivity</b>	<b>3</b>
Potential benefits of Longer-Term Contracts	3
How to identify opportunities for Portfolios	4
Current Challenges to be addressed	4
<b>Where it wouldn't be effective or appropriate</b>	<b>6</b>
<b>Opportunities, Challenges and Risks with longer term contracts</b>	<b>7</b>
Opportunities to drive value through frameworks	9
<b>Importance of Performance Management</b>	<b>11</b>
Monitoring and evaluating	11
Performance Management tools	11
<b>Case Study – Long-term Contracting - Department of Education</b>	<b>14</b>
<b>Case Study – Long-term Contracting - MoJ New Prisons Case Study</b>	<b>18</b>
Introduction	18
Delivery model development	19
Provision of cost certainty	21
Initiating the Alliance	23
Conclusion	28

# 1. Policy Context

## 1.1. Overview

- 1.1.1. This Guidance Note builds on Chapter 1 in the Construction Playbook to provide more detailed guidance on when longer term contracts should and shouldn't be considered. The aim of longer term contracts is to optimise value and efficiencies across projects, programmes and portfolios.
- 1.1.2. It is important to note that long term contracting is not always the appropriate approach so should be considered on a case by case basis in conjunction with this guidance.
- 1.1.3. Longer term contracts can provide certainty of pipelines, allowing suppliers to gain the required confidence to invest in new technologies, sustainable solutions and upskill workforces; adopting more manufacturing-led approaches to deliver safer, quicker and more sustainable solutions.
- 1.1.4. However, to realise the benefits, longer term contracts have to demonstrate continual improvements, efficiencies and value for money, with opportunities for parties to exit if these are not being realised.
- 1.1.5. Longer term contracting for the purpose of this guidance describes any contracts spanning over more than 3 years. The aim is to look for the optimal contract duration to achieve the programme objectives and benefits for the best value, which will depend on the context and aim of the contract.

## 1.2. Dissemination

- 1.2.1. The contents of this Guidance Note apply to all Central Government Departments, their Executive Agencies and Non-Departmental Public bodies. Contracting Authorities within the wider public sector are also encouraged to apply this note and its principles.

## 1.3. Contact

- 1.3.1. The Cabinet Office Markets, Sourcing & Suppliers team ([commercial.support@cabinetoffice.gov.uk](mailto:commercial.support@cabinetoffice.gov.uk)) provides support to complex outsourcing projects and market insight.
- 1.3.2. Enquires about this Guidance Note should be directed to the Markets, Sourcing & Suppliers team at [markets-sourcing-suppliers@cabinetoffice.gov.uk](mailto:markets-sourcing-suppliers@cabinetoffice.gov.uk).

## 2. Where it could be effective and provide opportunities for Modern Methods of Construction and enhanced productivity

### **2.1. Potential benefits of Longer-Term Contracts**

- 2.1.1. Developing long-term plans for key asset types and programmes can drive greater value through public spending.
- 2.1.2. Longer term contracting across portfolios of work, where appropriate and effectively contracted, can give industry the certainty required to invest in new technologies to deliver improved productivity and efficiency savings. This can provide a platform for benefits for contracting authorities such as developing skills and capability within the sector, achieving greater savings over an extended period, and mitigating capacity problems in the market through certainty of work years in advance.
- 2.1.3. Adopting a manufacturing-led approach to suitable public works projects and programmes will improve quality, productivity and deliver better value for money. This is achieved by standardising elements of design and utilising longer-term contracts with suppliers, contractors and consultants, this will give the industry the certainty required to empower suppliers to invest in innovative technologies and Modern Methods of Construction (MMC) to increase speed of delivery.
- 2.1.4. Higher productivity can be achieved through continuous improvement targets across the life of a contract. From the design and specification stage, year-on-year improvement plans should be produced. These should be reviewed at regular intervals in line with contract performance and project requirements and should help drive commercial and quality benefits to clients through increased supplier productivity. Utilising MMC can provide a different approach in infrastructure programmes, where uncertainty around funding and capacity limits more traditional methods. Savings made by using standardised components and manufacturing techniques to increase productivity can help offset unexpected or difficult to forecast challenges.
- 2.1.5. The benefits of long term contracting can only be realised if the contract is structured and designed to allow value and efficiency to be continually improved throughout its

life. This will be achieved through engaging with the market as early as possible, adopting a flexible approach that allows for continual review of the contract, and appropriate KPIs and resolution measures that incentivise the supplier and address poor performance.

## **2.2. How to identify opportunities for Portfolios**

2.2.1. Contracting authorities should review their pipelines and live projects, looking at where works could be brought together into portfolios, rather than individual projects.

Contracting authorities should then look across the public sector to identify further opportunities to create portfolios at a project or product level. This approach is likely to be appropriate where any or all of the following is true:

- The programme has repeatable assets and/or strong MMC potential.
- There is a long-term pipeline of work (e.g. schools, hospitals, public sector decarbonisation programmes).
- There is an opportunity for innovation to drive better value (e.g. public sector decarbonisation).

2.2.2. The Cabinet Office Markets, Sourcing & Suppliers team can provide advice in identifying whether a group of projects may be appropriate to bring together. Projects and programmes should engage early and extensively with the market when developing their approach.

2.2.3. Where contracting authorities identify opportunities to employ long term contracting as a tool to drive efficiencies, benefits, and value for money they should explore tender pricing options for projects individually and clustered into portfolios to facilitate a discussion of the opportunity with HMT. Without funding certainty, the benefits of long term contracts can be more challenging to realise.

## **2.3. Current Challenges to be addressed**

2.3.1. A stop-start approach to investment creates one-off “design and build” schemes rather than standardised requirements and repeatability that can speed up delivery and drive down cost as well as achieving other benefits such as increased safety and greener construction. Some programmes in the past have demonstrated that producing uniquely designed builds can drive up costs and does not always meet end user needs, this can be avoided through long term investment and programmes that allow for certainty of work and funding, as well as standardised specifications and quality.

2.3.2. Shorter term programmes can prohibit longer-term relationships with suppliers necessary for innovation across projects. They can inhibit efficient transfer of project knowledge and the ability to plan work more efficiently across a longer period, resulting in increased costs and reduced outputs.

### 3. Where it wouldn't be effective or appropriate

- 3.1. Whilst there are numerous benefits to adopting a long term contracting approach and the government should embrace this, there are equally many situations where it is not appropriate and benefits are unlikely to be realised.
- 3.2. One of the main benefits of a long term contract is that they can deliver increased savings and efficiencies over an extended period. These savings can only be realised if there is a high degree of certainty regarding the volume of work that will flow to a supplier. Failure to deliver against the pipeline can be harmful to supplier relationships and lead to a lack of trust and also negatively affect the suppliers' cash flow if the contract becomes onerous.
- 3.3. If there is uncertainty around the scope of the programme over the life of the contract this can cause problems. If a programme only has three years of pipeline funding then a long term contract may not be appropriate as the requirements may change.
- 3.4. A benefit of long term contracts is that they can continue to deliver to a fixed standard at a predictable price over a longer period of time. However, if an asset or requirement is bespoke or one-off and unlikely to be repeated then a long term contract may not be suitable. There may not be enough flexibility within a contract to allow constant amendment to the specification and requirement and the extra time and work required to keep delivering new requirements is likely to drive up costs and reduce efficiencies.
- 3.5. To ensure that a long term contract is the most suitable solution, a comprehensive market health assessment and Delivery Model Assessment (DMA) should be carried out as part of the business case process to understand the needs, scope, and pipeline for the programme and to outline and mitigate any risks identified. Additional guidance to support and inform the use of a DMA in the procurement of infrastructure and construction projects will be published by the Cabinet Office in 2022.

## 4 Opportunities, Challenges and Risks with longer term contracts

- 4.1 Long term contracts can provide a range of opportunities, challenges and risks to the contracting authority. It is key that these are captured at the start of the process as part of the business case to ensure that the right approach is adopted and adequate funding can be agreed so that the benefits of contracting with a longer term outlook are realised.
- 4.2 One of the main benefits with long term contracts is that they can drive greater savings by providing suppliers with clarity of work over a longer period of time. This can only be achieved through clearly defining the objectives of the procurement and how it fits into the wider programme structure.
- 4.3 Some key risks, their impacts and mitigations, of using a long term contracts are outlined in the table below:

<b>Risk</b>	<b>Mitigation</b>
<p>Contracting authorities need to ensure that long term contracts do not come at the expense of an innovative and competitive market. Demand should be aggregated in a way that allows lower Tier contractors including SMEs to play a central role in the sector.</p>	<p>Long term contracts should be disaggregated by appropriate category with suitable break and review clauses to allow contracting authorities to change scope. This can allow new solutions to be applied, continue to drive innovations, and help ensure market health whilst ensuring that the supplier does not get complacent.</p> <p>Due to the length of long term contracts, it is key that there is a clear contract management role which is supported through rigorous documentation to mitigate against staff turnover.</p> <p>The contract must ensure that it drives continuous improvements and has suitable breakpoints so that new innovations and solutions can be applied if these are more</p>



	suitable.
Lack of funding commitment for the whole life of the contract can reduce the quantity of work to be delivered within the contract, damaging relationships with suppliers and failing to deliver value for money.	It is critical to have clarity around pipeline and funding when adopting a long term contract.
If the contracting authority does not have a developed long term strategy they will often fail to capitalise on the benefit of a long term contract and any attempt to do so could result in unsuccessful outcomes.	Ensure long term contracting is only considered alongside an agreed long term strategy being in place.
Non standard specifications defeat the objective of longer term investment and innovation by the supply chain and the intended progressive performance improvements are not realised as the bespoke nature of the scope restricts efficiencies in standardisation and scaled production.	Replicability is key to the success of long term contracting and specifications should reflect this. If standardised specifications are not feasible reconsider the use of a long term contracting strategy.
Demonstrating value for money over the life of the contract can be challenging, this can be due to a range of reasons including market fluctuations and inflation, making securing funding guarantees more difficult and posing a risk to the viability of the procurement.	If value for money cannot be established via long term contracting then its use should be reconsidered including the use of break clauses identified above.
Maintaining momentum and driving efficiency over the life of the contract can be difficult, especially if there is staff turnover or a change of priorities within the contracting authority leading to poor performance and stagnation.	It is key to have a robust contract and supplier management strategy in place as a live document at the heart of the programme with clear ownership and responsibilities.
Not conducting rigorous enough market insight assessments at the start of a programme/project and a failure to understand the market's drivers can result in	Ensure any market insight assessments are robust utilising resources and tools available across wider departments and central teams.

missed opportunities to deliver value.	
Long term contracts can be used to drive behaviours in the market over an extended period, these can be positive or negative.	To ensure positive behaviours are driven it is critical to identify the objectives at the start and engage the supply chain early in the process.
Forecasting demand over a long period of time can be challenging.	Contracting authorities should ensure that they have assessed the whole life of the contract and what demand is anticipated. To help address this, upper and lower limits can be used to underpin scope and pipeline based on the funding commitment. This needs to be assessed to ensure it is a suitable course of action and will require scrutiny by the Cabinet Office Controls team.

#### 4.4 Opportunities to drive value through frameworks

- 4.4.1 The Constructing the Gold Standard review<sup>1</sup> published by the Cabinet Office and Professor David Mosey outlined 24 recommendations that public sector organisations should adopt when contracting for frameworks in the construction sector. Two recommendations (Recommendation 10 and Recommendation 11) are particularly relevant to the use of long term contracts.
- 4.4.2 Adopting the principles outlined in the Gold Standard review will ensure that public sector contracts continue to deliver value for money for taxpayers. They will be set up with a clear vision and objectives to deliver against, as well as making best use of new approaches such as embedding MMC. This will help build skills across the sector and deliver certainty of a pipeline of work for suppliers within the market.
- 4.4.3 The relevant recommendations that support long term contracting are below:
- 4.4.4 **Recommendation 10:** *Reduce procurement costs and improve value through the award of longer-term call-off contracts and the incentive of additional work (page 46) In response to industry concerns regarding inefficient and costly mini-competitions, this review recommends that framework providers and clients establish as part of their*

<sup>1</sup> <https://www.gov.uk/government/publications/an-independent-review-of-public-sector-construction-frameworks>

*framework strategy the optimum duration, scope and continuity of framework call-offs, including the potential benefits of awarding long-term project contracts or additional project contracts without additional mini-competitions, and that framework providers and clients obtain supplier proposals as to how these awards will lead to innovations and investments that deliver improved productivity and efficiency savings.*

**4.4.5 Recommendation 11:** *Improve supplier investments in MMC and other offsite technologies by awarding framework call-off contracts for portfolios of work (page 50) To obtain improved value from suppliers planning, investing in and delivering MMC and other offsite manufacturing technologies, this review recommends that framework providers, clients and managers use their framework strategies, procurements and contracts to explore and agree the benefits of MMC and other offsite manufacturing technologies and the additional benefits of one or more clients calling off aggregated portfolios of work.*

# 5. Importance of Performance Management

## 5.1 Monitoring and evaluating

5.1.1 Monitoring and control is key to the success of portfolios and longer term contracts since portfolio composition can change over time and longer term contracts need to ensure supplier performance meets expectations and drive value through continuous improvement. This can be advantageous over shorter contracts which typically have less commitment to spend driving improvements and efficiencies and are more focused on shorter term value for money.

5.1.2 Supplier and contract evaluations should be conducted regularly. Throughout the life of a long term contract it is possible that a project's priority is reduced, leading to a project being temporarily or permanently moved out of a portfolio and potentially replaced with other projects. It is important to have robust contract management procedures in place such that if a project is removed from a programme a continued drive to improve performance remains through the life of the contract even if the programme resources allocated to a project are reduced.

## 5.2 Performance Management tools

5.2.1 The performance regime needs to contractualise continuous improvement to deliver ongoing value for money. Projects and programmes should engage early and extensively with the market when developing their approach (see Early Supply Chain Involvement Guidance Note<sup>2</sup>). Key aspects for programme and project managers to consider are:

- Lessons learnt, produced and disseminated to other suppliers and contracting authorities from across government.
- Ensuring suitable break clauses are inserted into the contract, it is recommended that these are performance based but this will vary on a case by case basis.
- Use of stakeholder satisfaction surveys to help continually evaluate the performance of the contract. These will be contextual and should evolve with the life of the project to reflect current requirements.

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<sup>2</sup> <https://www.gov.uk/government/publications/the-construction-playbook>

- Suitable KPI measures with annual benchmarking, these should encourage good performance and be designed as SMART measures so that they identify problems early and enable prompt rectification.

- 5.2.2 Adoption of post contract Supplier Relationship Management (SRM) can identify strategic suppliers (by contract value, complexity, criticality, risk) and help develop corporate level relationships. These relationships can be used in project performance reviews and should be in addition to the day to day relationships held between the supplier and contract manager. Building positive corporate relationships, as outlined in the Supplier Code of Conduct<sup>3</sup>, can help mitigate the impact of staff turnover within the organisations.
- 5.2.3 Contractual mechanisms such as step-in rights should be seen as a last resort for managing contract performance as detailed in the Construction Playbook. To ensure the most beneficial relationship for both the contracting authority and the supplier it is critical to build a relationship grounded in positive behaviours and trust. This can be achieved through open and transparent dialogue between parties, keeping suppliers as informed about programme changes as possible, and understanding the demands placed on both parties by the nature of a long term contract. The demands will be different to those of a short term contract, any rift in the contractual relationship will have a significant impact on delivery and potentially grow exponentially over the life of the contract.
- 5.2.4 Adopting long term contracts can provide certainty of work to SMEs and open up the market to new suppliers and businesses including entrepreneurs, start-ups, VCSEs and mutuals. SME involvement can be driven both at a framework level but also at a contractual level. Long term contracts should be open to consortia and alliances but the risks associated with maintaining a working relationship for this length of time must be identified and mitigated where appropriate.
- 5.2.5 In order to take full advantage of the potential for continuous improvement under a long-term contract, the contract terms should describe a post-contract process of 'Supply Chain Collaboration'. This process provides a clear path through which the client and supplier together explore the potential for improved value by reviewing the scale, duration and aggregation of tier 2 and 3 supply chain appointments. The process

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<sup>3</sup> <https://www.gov.uk/government/publications/supplier-code-of-conduct>

of Supply Chain Collaboration is described in Sections 7 and 13 and in Annex 5 of 'Constructing the Gold Standard'<sup>4</sup>.

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<sup>4</sup> <https://www.gov.uk/government/publications/an-independent-review-of-public-sector-construction-frameworks>

## 6. Case Study – Long-term Contracting - Department of Education

Theme	Framework Characteristic	Intended Outcome
<b>Longer term contracting</b>	Four year framework term	Offers longer term certainty to the supply chain partners and the opportunity to develop a partnered approach to project delivery, based on multiple projects, learning curve effect and continuous improvement.
<b>Pipeline certainty</b>	DfE strong pipeline of schools projects, underpinned by 10 year spending settlement (currently 50 schools per year)	Allow supply chain increased confidence to make investments in staff recruitment and training, R&D and technology.
<b>Pipeline transparency</b>	DfE publishes a weekly list of all future project opportunities to all suppliers.	Allows supply chains to plan their resources around future opportunities and gives increased certainty of DfE's project throughput.
<b>Standardisation</b>	GEN-5 design guide Rigorous and comprehensive Output Specification clearly defining requirements for all school projects.	The use of fully compliant standardised design solutions reduces time, cost and risk.
<b>Manufactured approach</b>	70% Pre-Manufactured Value threshold as a minimum requirement for framework participation.	The framework is restricted to offsite/DfMA (Design for Manufacture and Assembly) providers to allow the government to leverage its pipeline to develop capability and capacity in the offsite sector.
<b>Performance monitoring</b>	Extensive KPIs were frequently gathered to monitor supplier performance across all projects. (These KPIs are used to incentive targeted outcomes that deliver excellent performance).	Contractor's performance is measured across all projects, and the outcomes determine their share of future workload, thus rewarding and incentivising excellent performance.

<b>Portfolio approach</b>	Projects of a similar type can be batched together.	Can bring efficiencies when the batching is done effectively.
<b>Reduced procurement costs</b>	Use of PBA (performance-based allocation) as default rather than mini-competition, which is used for 'atypical' projects.	Project level mini-tenders are costly, and result in abortive work for those who are unsuccessful. The use of Direct Allocation to pre-qualified supply chains who have demonstrated good delivery prowess results in significant savings to the industry and to the client.
<b>Increased cost certainty</b>	Fixed framework rates for (LIST) used throughout the framework, indexed to Total Project Integration and Location Factors.	Fixed framework rates allow a high degree of cost predictability, and the ability to focus attention on the particular areas of cost uncertainty such as abnormal costs.
	Harmonised Rates book - at framework tender stage the DfE required each bidder to submit rates for many of the commonly occurring cost items. Following the selection process, these rates were 'harmonised' into a common rates book that were mutually agreeable to both contractors and client, and could be used for cost planning purposes, to increase early price predictability and to reduce time spent in negotiation.	Reduced time spent negotiating or validating cost items.
<b>Reduced complacency (incentivisation of performance)</b>	Project workload (awarded through by Direct Allocation) linked to contractor performance (KPI results)	Improved predictability, enabling the supply chain to plan and optimise resources more efficiently.
<b>Risk Management</b>	Early supplier involvement during the feasibility stage to work alongside DfE's Technical Advisors to develop initial design proposals prior to OBC. This is enabled by Direct Allocation.	Improved feasibility reports and better understanding of delivery opportunity & risks.



	<p>Cost development Categories - particular cost items (including externals and abnormal cost items) can be developed on an open book process throughout Pre-Construction Services Agreement (PCSA) prior to contract award.</p>	<p>A more collaborative and shared approach to higher risk items, about which less is known at feasibility stage, prior to detailed site investigations, detailed design or market-testing.</p>
<b>Efficiencies &amp; savings</b>	<p>Ratchet mechanism introduces a discount to the DfE's build rate, based on the cumulative quantity of work Direct Awarded within each framework lot.</p>	<p>Client receives some of the benefits of increased efficiencies achieved to repeated delivery, in the form of discounted build rates.</p>
<b>Partnering</b>	<p>DfE has a framework support team who are dedicated to this framework and all project teams, with account managers allocated to each delivery programme.</p>	<p>Continuous and open dialogue. Early identification and escalation of concerns.</p>
	<p>PCSA milestone payments, as an early draw-down of design fees to partially reimburse the contractor for the significant design and survey costs incurred when developing the feasibility scheme to the fully detailed, fully approved contractor's proposals.</p>	<p>Reduced risk exposure and fair payment in return for value created.</p>
<b>Stimulating Innovation</b>	<p>DfE's MMC Innovation Forum - a monthly series of workshops among DfE's framework supply chain and advisors to celebrate and share best practice in construction, technology and procurement.</p>	<p>Promoting a culture of collaboration and sharing of knowledge.</p>
<b>Carbon Reduction</b>	<p>The framework Output Specification requires all projects to be Carbon Net Zero in Operation.</p>	<p>Reduced future carbon emissions, better whole life value.</p>

# 7. Case Study – Long-term Contracting - MoJ

## New Prisons Case Study

### 7.1 Introduction

7.1.1 This is a shortened version of a case study covering the Ministry of Justice's New Prisons Project, delivering circa 6,500 additional prison places through four new prisons as part of the New Prison Capacity portfolio. The full case study can be found [here](#).



*Image 1: HMP Five Wells, Wellingborough*

7.1.2 If you're a contracting authority, you should read this to understand:

- A worked example of what longer term contracting looks like in practice.
- Practical guidance and ideas on how it can be implemented on a smaller scale.
- The allocation of resources to undertake it.

7.1.3 If you're a supplier, you should read this to understand:

- How to influence contracting authorities and drive benefits from early supplier involvement to support long term contracts.
- Where you can add value and the different ways to advise, engage, or input into the process.

- The allocation of resources to be involved in it.

7.1.4 Adopting a long term contracting approach and incorporating early supplier involvement on the New Prisons Project has resulted in an innovative commercial approach and delivery model that meet the challenges faced and deliver tangible benefits.

## **7.2 Delivery model development**

7.2.1 The New Prisons Project has efficient procurement, collaboration and better project outcomes at the heart of it. Therefore, it was important that the delivery model took a programme-wide view that mitigated commercial and programme risk i.e. preventing the four new prisons being considered as individual projects in isolation of one another. Conducting a tendering process for each prison separately would have created:

- Unacceptable risks in resourcing, both within the Ministry of Justice and for prospective bidders.
- Risk of exhausting the construction market, for Tier 1 suppliers and supply chain.
- Power imbalance and missed opportunities of the potential benefits of the supply chain.
- Excessive (and potentially uncoordinated) competition for supply chain capacity.
- Programme slippage.

7.2.2 Crown Commercial Services adopted an innovative alliance approach on the Construction Works and Associated Services framework due to its benefits in promoting collaboration between Clients, Suppliers, and Framework Managers. It encouraged use of innovative contract arrangements to procure projects or programmes of work as a strategic alliance. This approach increased consistency, efficiency, and improved value and performance. The Construction Category team provided input and support through the strategy and development phases of creating the alliance.

7.2.3 The alliancing model was beneficial to the Ministry of Justice due to the scale and complexity of the project as well as the need for consistency in standard prison design. Beyond the cost benefits of the singular tender exercise, the alliance approach aimed to drive benefits of collective buying power, sharing of good practice, and procurement efficiencies across the life of the contract.

7.2.4 To achieve its aims, the Ministry of Justice set up an alliance as its delivery model for the four new prisons (Figure 1).

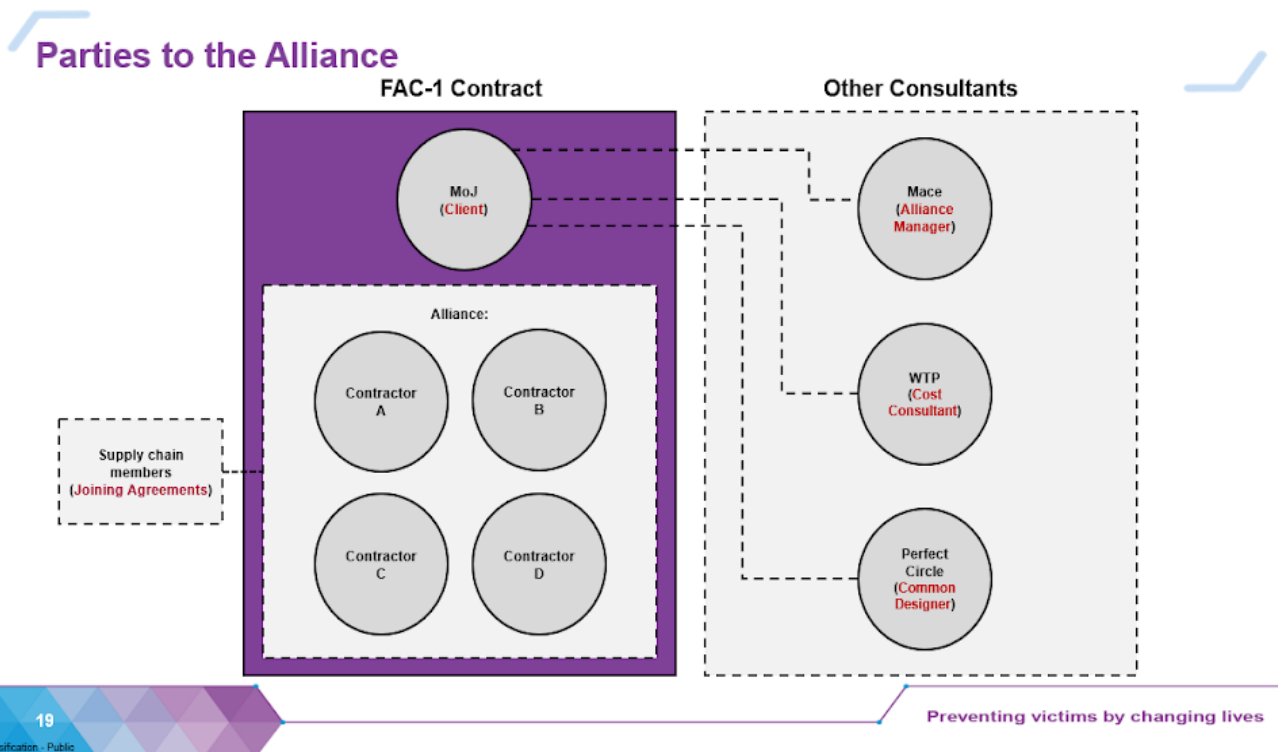


Figure 1: Parties to the Alliance and the integration of the wider Client team

7.2.5 The alliance model has been successfully employed on several high-profile projects, both public and private, with many different forms and varying approaches to structure used over the years. The Ministry of Justice transferred learning from these projects to design the appropriate structure to drive tangible benefits. Precedents set by other alliances demonstrate that the right balance of collaboration and competition could enable:

- Efficiencies,
- Joined-up working,
- Sharing of good practice,
- Sharing of data,
- Benchmarking between providers, and
- Creating competitive tension around performance.

7.2.6 Engaging with the market through an alliancing model helped to design and embed commercial strategies that promote healthy markets over the short, medium, and long term. It shared the construction expertise and the range of supply chain, maximising value and knowledge sharing whilst mitigating risk and improving efficiency. This

resulted in a strong unified team working collaboratively towards a set of common goals.

7.2.7 Following appointment, alliance members entered the pre-construction collaboration phase (Phase 1A). They provide input into the standard prison design, develop the supply chain strategy, and commence any early works instructed by the Ministry of Justice. After the pre-construction collaboration phase (Phase 1A), alliance members then entered the pricing for the first new prison at Full Sutton (Phase 1B). Here, the alliance members provided a price for the main works for Full Sutton (based upon the completed design), which was then used as the baseline for the remaining three new prisons.

7.2.8 The overarching FAC-1 terms linked the four suppliers together throughout the project, with forums for shared risk and decision-making. While liability to one another is one way to drive collaboration, the four new prisons alliance used shared objectives and incentivisation (see incentivisation section). This ensured continued benefits from the alliance once the construction phase commenced (each governed by its own set of NEC4 terms).

### **7.3 Provision of cost certainty**

7.3.1 Without a further tender stage following appointment of the alliance suppliers, cost certainty for both phases was monitored and delivered in accordance with a clear process. The tendered prices submitted by the alliance during the initial call-off/tender stage from Crown Commercial Service provided cost certainty in the following ways:

- Fees for the pre-construction collaboration phase (Phase 1A) were finalised at tender stage.
- Direct fees (overhead and profit) were fixed at the tender stage.
- Staff preliminary rates were fixed at the tender stage.
- Programme duration and contract value were assumed at tender stage, based on the ongoing prison builds at HMP Five Wells and Glen Parva.

7.3.2 During the pre-construction collaboration stage (Phase 1A) for the four new prisons, cost certainty was built upon by transparent supply chain engagement for key or critical packages i.e. mechanical, electrical and plumbing engineering, pre-cast concrete, and cell windows and doors.

- 7.3.3 Following the pre-construction collaboration stage (Phase 1A), alliance members prepared their price for the first new prison at Full Sutton (Phase 1B). This was based upon a completed design and the alliance package procurement strategy, allowing the Ministry of Justice to have cost certainty in the form of an agreed lump sum contract value for the first new prison. The price for the first new prison at Full Sutton submitted by each alliance member (made up of the transparently tendered packages plus rates agreed at tender stage) then formed the basis for pricing for prison sites two, three and four, allowing for adjustment for site-specifics only.
- 7.3.4 Whilst the alliance members were already in contract, value for money is driven during Phase 1B in several ways:
- Competitive rates set at framework level could not be exceeded.
  - Call-off competition to form the alliance provided additional competitive tension on these rates.
  - Key supply chain packages were subject to procurement mapping by the alliance during the pre-construction collaboration (Phase 1A) to build a common supply chain, driving value through collective buying power.
  - Circa 80% of the total value of each of the four new prisons would be competed transparently, competitively tendered on Ministry of Justice's sourcing portal, enabling additional reviews and benchmarking of costs.
  - The second, third, and fourth of the four new prisons would be priced on the same basis as the first at Full Sutton, with the only permitted adjustments being for site-specific differences (cost data from the Full Sutton prices will be used to build up these adjustments to ensure competitive prices are maintained).
  - The ongoing prison builds at HMP Five Wells and Glen Parva provided valuable cost and benchmark data, particularly in the second stage without further tender.
- 7.3.5 Benchmark data, both more broadly across the industry and specifically from HMP Five Wells due to the similarity of design, proved critical throughout the process. It supported the development of a robust cost plan and formed the basis for time and cost calculations from an early stage. This provided confidence in the business case process and allowed cost consultants to firm up estimates as tendering progressed (via the transparent e-tendering portal), accounting for site specifics, inflation and other variables.

## 7.4 Initiating the Alliance

7.4.1 The 'Alliance4NewPrisons' was formed in June 2020 between:

- The Ministry of Justice,
- ISG Construction Limited,
- Kier Construction Limited,
- Laing O'Rourke Construction Limited, and
- Wates Construction Limited.

7.4.2 To give the project the best possible chance of success, there were enabling factors to the alliance itself. These included:

- Alliance set up,
- Milestones and deliverables,
- Incentivisation,
- Governance, and critically
- Culture.

### 7.4.3 Milestones and deliverables

7.4.4 The deliverables and milestones were measured at regular intervals, monitored weekly through face-to-face core groups, and challenged in monthly steering groups. These included:

- Reviewing and improving the building reference design,
- Contributing to the development of site-specific design for the first new prison at Full Sutton,
- Supporting and developing a common supply chain,
- Standardising the supply chain, building components, and building engineering systems,
- Providing a clear commercial pipeline to the supply chain to secure and smooth market capacity,
- Realising economies of scale across the supply market,
- Delivering cost certainty sooner in the delivery process,
- Providing early works and services (as required),
- Improving enabling and main works programme integration through early engagement and collaboration,
- Improving shared learning across projects,

- Providing resource efficiencies and optimising resource profiling,
- Understanding and mitigating, eliminating, or reducing the risk to the New Prisons Project with the aim of bringing forward prisoner-in dates.

7.4.5 Collaboration and the benefits of an alliancing model continued beyond the pre-construction collaboration phase. The alliance contract was built around shared objectives that all alliance members signed up to for the duration of the project.

#### 7.4.6 Incentivisation

7.4.7 It was essential to ensure the alliance was incentivised to continue to leverage the benefits of early engagement as it moved into the individual project delivery (governed by its own set of NEC4 ECC terms) and achieve (or where possible exceed) a set of stretching additional targets, beyond that of a standard new prison build. To support this, the alliance approach included an incentivisation sum for targets over and above the 'core' key performance indicators, and key performance indicators that focused on early supply chain involvement.

7.4.8 The overarching FAC-1 alliancing terms still applied throughout the new prison build. Delivery of each individual prison build was closely monitored through 34 key performance indicators, including incentivisation of early supply chain involvement. The decision to incentivise the alliance was based on:

- Additional encouragement for alliance members to work together to achieve better outcomes for the HM Prison and Probation Service, Ministry of Justice, and the construction sector.
- In-line with the Construction Playbook, government strategy guidance is not for a "race to the bottom" approach.  
Promotion and incentivisation of activities that provide significant and long-term value to the project, department, and beyond.

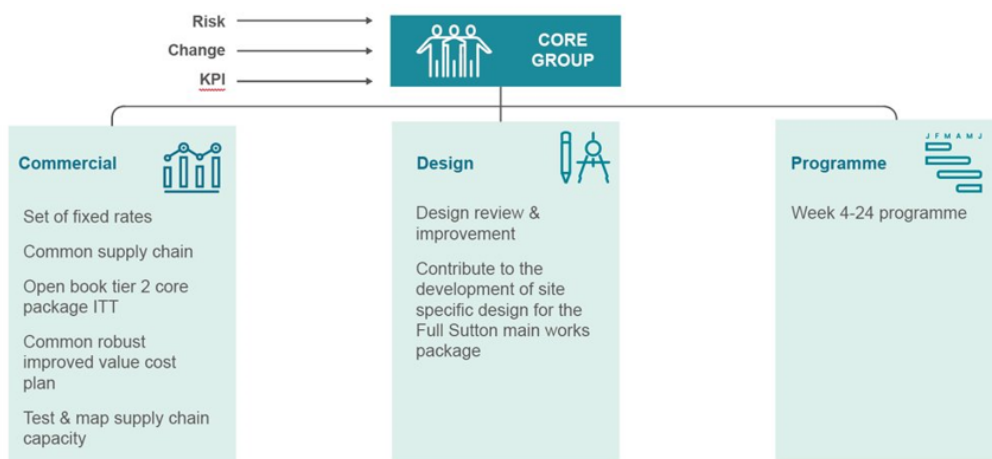
7.4.9 Key performance indicators were developed to incentivise "over-performance" i.e. the incentivisation pot could not be accessed through business-as-usual performance. This was due to the structure of the key performance, split into three 'tiers' of core, stretch, and performance. The alliance members needed to achieve all core key performance indicators and green status on 12 of 16 stretch key performance indicators in each month to be considered for incentivisation. Although the key performance indicators only applied to the construction period, in creating the alliance, the Ministry of Justice



used incentivisation to drive continued benefits following the initial collaboration phase, getting the most out of bringing four suppliers together over the longer term.

#### 7.4.10 Governance

7.4.11 Mapping out how the alliance would fit into pre-existing governance structures was an important activity to undertake early in the project. It provided an opportunity to test the effectiveness of the alliance. The alliance contract set out the role of the ‘core group’ and ‘steering group’ in decision making, both during the pre-construction and construction phases. Beneath the ‘core group’ sat the workstreams where most of the activities were carried out. These workstreams were commercial, procurement, design, and programme (Figure 2). Whilst each alliance member led a workstream, the working groups comprised individuals representing all organisations within the alliance, featuring combined specialisms from blended teams:



*Figure 2: Alliance detailed workstream structure*

7.4.12 The ‘core group’ was responsible for collating the outputs from each workstream and approving them before they were passed through the relevant project governance. Each board had clear levels of delegation and authority to ensure decisions could be made efficiently and effectively. This was critical in allowing the project to be flexible, responding quickly to mitigate emerging risks, and taking decisions at the right level.

7.4.13 The ‘steering group’ was a forum for progress monitoring and escalation, featuring a Director from each organisation. Selecting the right representatives from the Ministry of Justice was key to challenging ‘group-think’ and representing value for money.

7.4.14 Alliance members were integrated within the project teams and boards for each individual new prison build, as well as across the various projects, to ensure everyone

received the same information and was sighted at a strategic level. The boards were made up of cross-functional leads, including representatives leading operation of the prisons post-construction and 'critical friends' e.g. from the Infrastructure and Projects Authority. This ensured decisions were made with a full understanding of the implications.

7.4.15 Risk management, programme, and early works

7.4.16 The alliance delivered tangible and significant benefits through its input into the early works, logistics, and planning process. The deep dive reviews carried out by the programme and design workstreams identified opportunities to bring work forward, overlap activities, or re-sequence to improve upon delivery timescales. This provided valuable mitigation at an earlier stage by testing and, in some cases, disproving assumptions in previous iterations of the programme. The benefits ranged from reviewing alternative access routes to ecological interventions. The alliance also input into, and supported the development of, scoping documents.

7.4.17 Four organisations working alongside the Ministry of Justice enabled accelerated reviews and deep dives into each project, programme and critical path, delivering maximum value in a short period. Despite many challenges on builds of this size, the alliance has driven identification of risks at the earliest opportunity, bringing together the expertise of multiple organisations to assess options in achieving the best outcomes for the programme.

7.4.18 Design

7.4.19 Consistency of design across the four new prisons was also critical. In line with the government's Construction Playbook, the four new prisons included standardised components, platform design for manufacture and assembly, and digitisation. The challenges around design were mitigated by:

Challenge	Solution
Encouraging innovation at every stage of the project.	Inclusion of a 'review and improve' objective for the design workstream to deliver a schedule of design opportunities to support Full Business Case commitments. Additionally, it focused on agreeing a

	standard that would deliver value for money across the programme of work.
Review of standard design prior to handover.	In a combined effort across all workstreams, a requirement to engage specialist design partners within the supply chain was identified, allowing for early appointments.
Design readiness prior to procurement packages going to the supply chain.	Design readiness is a critical enabler for procurement, and the alliance has focussed on identifying co-dependencies across workstreams to ensure opportunities are not missed.
Handover of the design between the Ministry of Justice's design team and the alliance.	Early supplier involvement during the design process in the pre-construction collaboration phase (Phase 1A) meant the alliance was able to provide feedback, flex programme dates, and smooth the process to mitigate some of the emerging risks.
Ensuring lessons identified from the previous experience of the HMP Five Wells and Glen Parva construction were learned.	The lessons learned from previous experience of the HMP Five Wells and Glen Parva construction were incorporated through a robust process of continuous improvement.

7.4.20 Innovation was one of the biggest benefits of early supplier involvement. Early supplier involvement of the alliance in a pre-construction collaboration phase (Phase 1A) helped the Ministry of Justice to achieve this. It was driven through the design workstreams joint review with representatives across all four organisations alongside the Ministry of Justice and its delivery partners. The design improvements ranged from:

- changes to increase offsite manufacture,
- improvements to health and safety onsite, and
- better efficiency in construction.

7.4.21 More than **60 opportunities** were triaged for implementation through the project's change group.

7.4.22 Though there was a pre-existing standard design, the design for the four new prisons would target BREEAM 2018 Outstanding ratings, and routes to net zero carbon. The design of these new prisons, while based on that of Glen Parva, would deliver better environmental outcomes because they would:

- Achieve a significant reduction in operational energy consumption from the national grid compared to the Glen Parva baseline.
- Achieve an 85% reduction in operational carbon emissions compared to the Glen Parva baseline and achieve BREEAM Outstanding.

## **7.5 Conclusion**

7.5.1 Adopting a long term contracting approach and engaging suppliers early in the commercial process was critical to the New Prisons Project and the achievement of strategic objectives, driving benefits in time, cost, and quality. It challenged the construction market to deliver better outcomes from shared expertise. The alliance members rose to the challenge, sharing information, solutions, and collaborating to mitigate risk. It was a truly collaborative venture throughout the construction supply chain. This helped the Ministry of Justice to develop an understanding of how to build and stimulate the marketplace and build the capacity, capability, and resilience as well as position itself as a more desirable customer, building confidence, trust, and credibility with the market. Achieving this was enabled through good planning, openness with the market, and a robust tender process to appoint the alliance, as well as ensuring the right structures were established to facilitate maximum value. These steps have ensured challenges and setbacks are worked through collaboratively as the programme progresses, driving continuous improvement through each new prison build.



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