Government Internal Audit Agency

Department of Health and Social Care

Follow Up Review - Covid19 Advisory Work

Final Report

Date of issue: 20 May 2022

Audit reference: 21/22-DHSC-032

Contents

Executive summary

Moderate

Moderate

Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control.

Background

The Department of Health and Social Care has played a critical and central role in managing the Government's Covid pandemic response, working with other departments to ensure expertise and resources are optimised and used effectively. The Department has had to manage significant challenges during the past two years and the organisation has been working to tackle the pandemic whilst maintaining a focus on its wider responsibilities for ensuring the health and care of the nation.

During 2020-21 GIAA undertook 5 advisory reviews, at the request of the then Second Permanent Secretary, to evaluate the effectiveness of the Department's response to the Covid pandemic. These were:

- 'Analysis of Personal Protective Equipment (PPE) issues';
- 'Risk and Control Deep Dives (Covid impacted areas)';
- 'New governance arrangements supporting delivery of the DHSC Battle Plan and Covid decision making audit trails';
- 'Due Diligence'; and
- 'Overdue Internal Audit Recommendations which could present a risk to the department in relation to the response to the Covid pandemic'.

The objective of this follow up review was to provide assurance that the department has effectively addressed some of the key issues identified in relation to its response to Covid based on the output from our advisory reviews, and that it has implemented a robust control environment to mitigate and minimise risks.

Executive Summary

Since we carried out our advisory reviews in relation to the Department's response to the Covid pandemic, it is evident that significant work has been undertaken to address the weaknesses in governance, oversight and assurance that we identified. There is however still some remedial work to complete before risk is mitigated to the agreed level.

Our high level findings are as follows:

- In relation to **PPE** the department has undertaken both forward and retrospective action to ensure that the quality issues experienced during the early days of the pandemic, which resulted in the procurement of large amounts of PPE and were subsequently found not to be fit for purpose, do not happen again. In addition, the department has established processes to seek financial redress regarding the unsuitable products it was provided with. The development of a PPE Strategy (currently at draft stage) clearly articulates the aim of the department to build a reliable and resilient supply chain of current and future needs. Finalisation of this strategy is as an area that needs priority focus over the coming weeks. The Department also needs to complete work on addressing the actions arising from Nigel Boardman's second review into procurement activities, pertaining to key areas of the Government's response to the COVID-19 pandemic.

- The department undertook a focused approach to ensure that the **Battle Plan chronology** documents provide a clear evidence based audit trail for all actions and key decisions made since the start of the pandemic. Oversight of the chronology documents now sits with the Inquiry Preparation Unit (IPU) who continue to work with Battle Plan workstream leads to ensure the documents are fit for purpose. IPU are providing detailed and constructive feedback in respect of the Chronology's to ensure that they are accurate and complete. We can see that this is nearing completion with work planned during March to bring this exercise to a close.

- The department has put in place a Standard Operating Procedure – Emergency Procurement Playbook which sets out appropriate governance and control requirements in relation to any future emergency procurement activity. It includes compliance obligations particularly in respect of due diligence checking and declaring of conflicts of interests and the requirement to establish second line of defence teams to undertake risk-based checks on the decisions and documentation produced by the front-line teams. The Playbook takes account of Cabinet Office and NAO recommendations in respect of these important checks. This action will increase the Department's ability to ensure propriety, probity and compliance with the standards documented in Managing Public Money. In relation to **Conflicts of Interest** we note that the department has implemented a more robust process and detailed declaration document for staff involved in either procurement or contract management, which is in addition to the generic Conflict of Interest declaration that all staff, including ministers, must complete on D365.

- The department has undertaken all necessary actions in relation to the **contractual liability arrangements** it entered into in the early days of the pandemic. Retrospective HMT approval has been sought and agreed and contracts have been re-negotiated by the department to reduce its exposure to liability claims at the earliest opportunity.

- The department undertook a **ways of working review** in the summer of 2020 to learn lessons about incident response in the first part of the pandemic. The department should assure itself, taking a risk-based approach, that high priority recommendations, where proportionate and still relevant, have been implemented appropriately.

- The department has undertaken significant work to implement the **recommendations that we made as part of our Covid19 reviews**. Risk exposure has reduced, with 77% of actions implemented, although there is still some residual risk pending the completion of all actions. Of the 39 Internal Audit recommendations made as part of our Covid -19 related audits, three which are overdue, have since been transferred to the UK Health Security Agency (UKHSA) as they relate to Test & Trace. Of the remaining 36 six are overdue. These are in relation to PPE, completion of the chronology documents and development of a commercials training course. All six recommendations are in progress or are partially implemented. We urge that these are given priority attention.

	High	Medium	Low
Recommendations	0	2	0

Findings

Assessed risk 1

Ineffective governance structures and oversight arrangements in respect of Personal Protective Equipment (PPE) could potentially mean items may not be available when needed or may not be safe and effective for use by front line staff.

Opinion on management of risk

Moderate

The department has made significant efforts to improve the way it procures, stores and supplies PPE since the early days of the pandemic. Key improvements include the implementation of the PPE Portal to enable demand to be monitored and managed, establishment of detailed quality checks to ensure that items delivered are fit for purpose and work to build a network of UK make suppliers. Completion of audit recommendations is imminent. Finalisation of the Department's PPE Strategy, which is currently at draft stage should allow us to formally close these (see Risk 5, Annex 1 below for further analysis).

However, the department still has issues to be resolved as a result of the procurement it undertook at the height of the pandemic including excess stock for which there is little demand and stock which does not meet quality standards and cannot be supplied to healthcare organisations. Both incur significant cost to the department for storage. The department is taking the necessary steps to ensure that excess stock is disposed of appropriately and that action is being taken to seek financial or legal redress to recover expenditure where necessary.

Background context

Our report 'Analysis of PPE issue – Advisory Review' (finalised in September 2020), focused on the issues in relation to the quality of items procured, stored and supplied as part of the PPE for Pandemic Influenza Preparedness (PIPP) stockpile, which pre-dated the Covid19 pandemic.

Prior to the pandemic, the provision of PPE was not centralised. NHS Supply Chain, which was established in 2016, had responsibility to help the NHS deliver clinically assured, quality products at the best value through a range of specialist buying functions, and leverage the buying power of the NHS to negotiate the best deals from suppliers.

NHS Supply Chain sourced products for acute NHS Trusts and the then Public Health England (PHE) maintained a store of PPE for PIPP on behalf of the department. Other health and social care organisations, including primary care organisations, were responsible for sourcing their own PPE through wholesalers or directly from suppliers.

Supply Chain Coordination Limited (SCCL), a company wholly owned by the Secretary of State for Health and Social Care, had responsibility for the oversight of and operational management of NHS Supply Chain. SCCL transferred to NHS England & Improvement

(NHSE/I) on 1st October 2021 as part of the longer term strategy of transferring overall responsibility for PPE for the healthcare system to SCCL by 31st March 2022.

However, although the NHS Supply Chain and the PIPP stockpile were an important source of PPE, they were not designed to meet the operational need for the product types, volume and pace of distribution required for the Covid19 pandemic. Many of the health and social care settings had never had the need for certain items of medical-grade PPE before.

The urgency of the situation led the department to undertake PPE procurement, due to global demand, at pace and at a scale which ultimately resulted in the purchase of PPE in excess of the amount required to satisfy UK health and social care needs, often at increased costs and some of which did not meet quality standards.

To distribute the PPE, the department set up the PPE portal in September 2020, inviting nearly 60,000 eligible healthcare organisations to register and order their required PPE free of charge. Of those invited over 50,000 have registered and as of January 2022 over 4 billion items of PPE had been supplied via this channel. The issue of free PPE via the portal was due to end in March 2021 but this has been extended a number of times, now lasting until the end of March 2023 or until guidance on PPE usage is withdrawn.

As part of our 2020 review, we made 5 recommendations. The 4 which remain overdue, although partially implemented, are detailed in Annex 1. The high level focus of the recommendations made was:

- Product Specifications and Certificates of Conformity
- Quality Checks
- Documentation Audit Trail
- PPE Stockpile Replenishment Strategy

Product Specification and Certificates of Conformity

We consider that the department has clearly articulated the product specifications to all organisations which may opt to tender to supply PPE and that Certificates of Conformity are no longer solely relied upon to confirm products are compliant with quality standards. Product specification requirements, practises and processes are set out within the Department's PPE Strategy. This is at draft stage at the moment. We have highlighted this as an area that needs priority focus over the coming weeks. The finalised PPE Strategy, which encompasses all areas of PPE requirements, will need to be reviewed to confirm that the recommendations from our review can be closed as implemented and that the Strategy is fit for purpose to be handed over to SCCL.

In relation to product specification the department, in conjunction with the Cabinet Office (CO), published the Technical Specifications for Personal Protective Equipment (PPE) guidance on the gov.uk website, which is intended to inform new suppliers and manufacturers when they are using the tendering process for the supply or manufacture of PPE. In November 2021 the webpage was updated to remove three PPE specifications as regulatory easements were no longer available for PPE. The updated webpage makes clear

that any new PPE must satisfy the essential health and safety requirements of the 2016/425 PPE regulations and carry the CE or UKCA mark.

Prior to the Covid 19 pandemic, reliance on products meeting quality standards was only confirmed by provision of the Certificates of Conformity, which are provided by the suppliers. However, these are not independently verified and cannot be relied upon to ensure that products meet the necessary standards. Checking of items received was limited to observations as to whether external packaging was intact or damaged. Reliance on the Certificates resulted in the department holding items in the stockpile, which were not tested, and which were subsequently found not to be fit for purpose after complaints were raised by receiving organisations.

The Medicines & Healthcare Products Regulatory Agency (MHRA) and the Health & Safety Executive (HSE) took charge of the quality process from late April (until around November 2020) and their processes were very thorough. They then handed over to DHSC to establish the Technical and Regulatory Assurance team (TRA) who undertake quality checks of all newly procured and existing PPE stocks on a sample basis to ensure the products meet required quality standards. Where necessary the TRA seeks input from the regulators.

In order to reduce the risk of poor quality imported PPE, the department has focused on moving towards greater reliance on UK manufacturing capacity with now over 20 PPE manufacturers in the UK producing masks, eye protection, chemicals, films and gowns.

In addition to this the raw material capability in the UK has been developed, increasing the resilience of the supply chain. A key material in the production of face masks and gowns is meltblown fabric which provides the filtration required for protection against COVID-19. Since July 2021, there are four UK manufacturers producing over 200 tons of meltblown material per month. As part of the 2021-22 audit review of Contract Management we reviewed two UK make contracts (Medicom Healthpro Ltd and Milpharm Ltd) and found that both were being managed effectively.

Following our review of the checklists completed by the TRA team we consider that the checks that the TRA undertakes are appropriately thorough and detailed, and subject to appropriate oversight, to enable the department to have sufficient assurance that the PPE it has is either fit for purpose, can be made available for other purposes or should not be supplied and that expert opinion is sought where necessary.

Quality Checks

Overall, we consider that the department has and is undertaking appropriate quality checks in relation to the PPE it has and is purchasing to properly evaluate whether it is fit for purpose and how best to seek to either use it or dispose of it, where quality standards are not met. Quality assurance arrangements are set out within the Departments PPE Strategy. This is at draft stage at the moment. We have highlighted this as an area that needs priority focus over the coming weeks.

The department has established the TRA team who undertake detailed quality checks of newly procured PPE items and those held in the stockpile to evaluate whether the items supplied comply with quality standards. The TRA process has been documented to show the end to end process for both new and existing products, which includes escalation to regulators and expert authorities where necessary.

A detailed checklist has been developed for all PPE products, the Business Review Summary, which involves a number of tests which must be completed, and results in a recommendation as to whether the items are either fit to release, not fit to use in NHS trusts or have potential use in other healthcare settings.

A recommendation is then made as to whether the products should be subject to an E Portal/Targeted Push, Redistribution or Commercial Resolution. The recommendations are reviewed by the Finance Business Partner, Legal lead, Category Manager and then reviewed by the Head of Contract Dissolution prior to being submitted to the PPE Commercial Assurance and Approvals Board for a final decision as to the approach that should be taken.

The completed documents are uploaded to Atamis, the department's commercial and contract management system, for each supplier and contract.

The department established the Contract Dissolution Team (CDT) in late 2021 after identifying a need to bring together the expertise of procurement and contract management teams for PPE to address the issues of contracts that the department entered into and which were at highest risk of not providing either value for money or quality.

As reported by NAO in the department's Annual Report and Accounts, the department had procured £0.67 billion of PPE which cannot be used because it is defective and not fit for purpose and £2.6 billion of PPE which is not suitable for use within the health and social care sector, but which may be suitable for other uses. These items are categorised as Do Not Supply (DNS).

The CDT works to review all elements of the original contracts to evaluate as to how the department can seek redress, either legal or financial, where PPE items ordered were either not delivered or if delivered did not meet Value for Money (VfM) or quality requirements and fall into the DNS category.

As part of their role the CDT commissions quality checks for PPE items undertaken by the TRA team to inform their review of all contracts on a sample basis. A review was undertaken to RBAG rate all existing PPE contracts, which resulted in 379 contracts being reviewed.

The RBAG ratings descriptions are as follows:

Red —where there is potential to recover monies from the supplier - e.g., the product has not met specification, failure to supply products where there is potential to recover monies from the supplier.

Blue —where no commercial route has been identified with supplier, therefore pursuit of VfM through other routes e.g., selling products.

Amber —where contract and product review is still underway to determine final status, e.g., ongoing quality assessment where contract and product review is still underway to determine final status.

Green —proportion of contract value not at risk and value of money has been achieved e.g., product is on push to general healthcare proportion of contract value not at risk and value of money has been achieved.

To date of the 379 contracts:

- 217 are rated as green
- 79 are rated as amber
- 22 are rated as blue, and
- 61 are rated as red.

Where contract managers within CRT are unable to achieve resolution through discussion and negotiation, the contracts are passed to the Dispute Resolution Unit (DRU), which assesses what action is appropriate and/or achievable. This may involve mediation or legal action.

DRU currently has 41 contracts within its remit which represents a value of £1.7bn. Should legal action be appropriate it is unlikely that any court hearings will take place until 2023.

The establishment of the TRA in undertaking quality checks, with input where necessary from specialist organisations, has been a significant improvement from the minimal checking that was undertaken at the beginning of the pandemic in 2020.

Documentation Audit Trail

Our recommendation relating to the need for retention protocols in respect of documentation procurement and up keep of the influenza stockpile is not yet implemented. We have highlighted this as an area that needs priority focus over the coming weeks. Currently the risk remains that the department may not be able to seek either contractual or financial redress where suppliers fail to meet the standards set by the department, where the original procurement documentation is no longer held. The department needs to ensure that it has an effective retention policy for all PPE and other procurement activity which is recorded on Atamis. This is particularly important for items or supplies, which have a lifespan beyond the 6 years where documents are required to be retained.

Our previous review identified that procurement and contract documentation was not being retained for the lifetime of the PPE products which extended beyond the 6 years, which were requirements put in place by the Limitation Act 1980 and the Prescription and Limitation (Scotland) Act 1973.

These acts state that any proceedings to recover money must be instituted within 6 years of the money becoming due. If proceedings are not instituted within the relevant period, the claim is statute barred. A direct effect of this is that most purchasing and contract documentation needs only be retained for a period of six years after the end of the contract, although National Archives advise that Departments undertake a risk assessment of the destruction of contractual records to ensure that action taken is commensurate with accountabilities.

As a result, we made a recommendation that procurement and contract management records should be retained to meet the shelf life expiry date of the products procured, where this is longer than 6 years, but we have not yet seen any evidence that this has been implemented.

PPE Stockpile Replenishing Strategy

Whilst a PPE Strategy is still at draft stage (meaning that implementation of our audit recommendation is overdue), we consider that it reflects all the key elements necessary to enable a more integrated and resilient supply chain to meet ongoing and future needs. The work undertaken by the department to reduce reliance on overseas suppliers, to work with UK manufacturers, the increased capacity within the UK to produce component materials and the quality checks undertaken by the TRA will significantly reduce the risk that PPE that is not fit for purpose is procured.

As reflected in the NAO Comptroller and Auditor General's (C&AG) report in relation to the department's Annual Report and Accounts 2020-21, the department procured PPE to the value of £12.1bn requiring increased storage facilities including warehouses and shipping containers which are operated by ten different organisations all of which use different Inventory Management Systems (IMS), even organisations within the same group use different systems, which do not provide a consistent reporting methodology resulting in the reliance on the manual completion of Excel spreadsheets and collation. This combined with the unprecedented levels and pace of procurement and stock being moved between storage facilities resulted in the department being unable to maintain accurate inventory records.

Through the implementation of the PPE portal, the department has been able to measure demand for products more effectively, informed by the orders from the end users, to enable the department to make more effective decisions in relation to purchasing, procurement and replenishing activity.

The department currently holds 1.2 million pallets of PPE and following evaluation of the current demand estimates that approximately 50% of that is excess stock. The storage costs for the excess stock incurs significant additional cost to the department. As of February 2022, the department estimates the storage costs of the excess PPE is approximately £2.9m per week.

As a result, the department is exploring options as to how to reduce the excess stock levels. Options include sales, donations, extending the shelf life, stock rotation and disposal through recycling. To date the department has sold or donated over 500 million items. However, there is low demand for some items such as gowns, visors and goggles so the department is exploring other options such as sustainable disposal which will not involve landfill.

The PPE Policy & Strategy Directorate have lead responsibility for developing the future strategy for PPE. Previously their focus was the department's short term plans which resulted in the publication of the PPE Strategy in September 2020, but the focus is now on the longer-term strategy from March 2022, when responsibility transfers to SCCL, through to 2024 with a revised PPE Strategy currently at draft stage.

We have recently finalised a separate report which was commissioned by the Cabinet Office to measure and report on progress made towards the implementation of the 28 accepted recommendations from Nigel Boardman's second review into procurement activities, pertaining to key areas of the Government's response to the COVID-19 pandemic. 11 of these actions relate to DHSC with a number focused on practises and processes in relation to PPE. We noted progress to date whilst noting that there has been some delay in progressing these actions of late due to the need to respond to the Omicron variant.

Assessed risk 2

Ineffective governance structures and oversight arrangements may mean that the department lacks evidence based audit trails in respect of Covid Battle Plan related decision making activity. This could lead to reputational damage due to lack of transparency.

Opinion on management of risk

Moderate

Based on evidence reviewed, the Covid19 Programme Management Office (PMO) has undertaken a significant amount of work to ensure that the Battle Plan chronology documents provide a clear evidence based audit trail for all actions and key decisions made since the start of the pandemic. IPU are reviewing the chronology documents and providing detailed and constructive feedback in relation to improvements to ensure that they are accurate and complete. There is work planned in March to bring this exercise to a close (see Risk 6 and Annex 1 below).

The Departmental Battle Plan was developed to provide initial clarity of direction in response to the Covid19 pandemic and has been subject to ongoing review to ensure continued relevance. The department established a governance framework which proved sufficient for the short term management and delivery of those elements of the Battle Plan wholly incorporated within the department.

In the early stages of the pandemic, decisions were being made at pace as the department reconfigured its operational focus to mitigate the risks posed by Covid19. As the pandemic response embedded into Business As Usual (BAU) operations the Oversight Board (OB) became more conscious of reputational damage (ensuring continuity as well as robustness of record keeping to support probity of decisions) and a clear and robust framework for recording key decisions and supporting evidence for all activities within the Battle Plan was developed.

To mitigate the risk of inconsistent approach to the recording of supporting audit trails across the Battle Plan workstreams, it was agreed that a Chronology would be produced for each workstream. To support development of Chronologies, a clearly articulated and highly detailed framework was produced outlining key requirements and standards in a granular level of detail, setting out key steps from initial set up, configuration, presentation and review and assurance requirements. The Chronology framework also provides advice and practical examples of how the Chronology has been produced in an existing workstream.

At the time of our review in 2020, the chronologies were at differing stages of development and maturity. The production of these has been subject to close monitoring. The Covid19 Programme Management Office (PMO and Covid19 Central Litigation Team) has provided regular reports and assessments as part of assurance of the Battle Plan workstreams chronology documents, which were reviewed by the OB bi-monthly. The OB agreed in August 2021 that the Covid19 PMO and Central Litigation Team should meet with each workstream to review their chronology documents and provide advice and support in order to have a set of documents with consistent levels of information which were being maintained and a series of workshops were held in September 2021.

In late 2021, the department established an Inquiry Preparation Unit (IPU) which has responsibility for providing support, advice and guidance to individuals and teams within the department that will be involved in preparing for and responding to the Covid Inquiry which is expected to commence in Spring 2022. Given the significant role that they will have in the department's preparation for the inquiry responsibility for working with Battle Plan workstreams on Chronology documents transitioned to the IPU on 1st November 2021. The IPU has now established separate reporting mechanisms but still reports to the OB on progress periodically.

The IPU Deputy Director wrote to all workstreams to request completed chronologies are provided by 8th November 2021. IPU undertook initial analysis and provided detailed feedback and recommendations as to where improvements could be made. A key improvement requested by the IPU was to have embedded documents in the chronologies rather than Sharepoint links to minimise the risk of potential future accessibility issues.

To support the chronologies, the IPU has commissioned the development of a Strategic Narrative for each workstream, the purpose of which is to "reflect on the key moments in the pandemic for each policy area highlighting key successes and learning and provide an account of the thinking, key events and decisions in each Battle Plan area throughout the pandemic, including a reflection of what worked well and what worked less well, as well as what lessons have been learnt in terms of the pandemic response".

Once the Terms of Reference for the Inquiry have been finalised and shared, the IPU aim to assess what further work is required in relation to the chronologies and narratives to ensure they are fit for purpose and meet the needs of the department in relation to the Inquiry. Whilst this work is yet to be finalised, we are of the opinion that the department has and is undertaking significant work to ensure that the chronologies will be sufficiently robust and detailed to mitigate the risk of reputational risk through lack of transparency.

Assessed risks 3 and 4

Failure to undertake Conflicts of Interest activity may lead to poor procurement decisions being made and potentially poor value for money being achieved. There may be impropriety or irregularity and reputational damage might result.

Failure to undertake appropriate and timely retrospective action in relation to Contractual indemnities leads to the department having greater exposure to related claims.

Opinion on management of risk

Moderate

Following the recommendations made in our review and as a result of a Commercials Group lessons learned exercise in relation to Covid-19 procurement activities, the department has put in place the Standard Operating Procedure – Emergency Procurement Playbook, to enable new programmes requiring DHSC Commercial oversight to be quickly set up with the correct commercial controls, including those related to Conflicts of Interest and Contractual Indemnities as well as wider commercial controls, agreed by the Senior Responsible Officer (SRO). The guidance

set out in the Playbook is clear and sets out the roles and responsibilities for those with key management and oversight roles to ensure that there are appropriate controls and governance arrangements in place. All areas where we identified weaknesses are addressed within the Playbook.

The department has also effectively addressed the risks in relation to the Conflicts of Interest and Contractual Indemnities issues which arose in the initial weeks and months of the Covid-19 pandemic.

As part of our Risk and Control Deep Dives review, we identified that there were key weaknesses in relation to a number of commercial processes, specifically:

- Undertaking appropriate checks regarding Politically Exposed Persons to include related party transactions during the due diligence and post-payment processes;
- Ensuring all staff involved in procurement activity have completed a Conflicts of Interest declaration;
- Setting risk appetite in relation to Contractual Indemnities and to undertake timely retrospective action to those agreed at the height of the pandemic;
- Formalising accountabilities to ensure there is complete clarity regarding which team within Government is responsible for approvals or due diligence;
- Undertaking VAT registration checks for new suppliers;
- Undertaking bank account checks for new suppliers sufficiently early in the supplier approval process; and
- Developing checking routines to identify any trends which may indicate fraud.

In addition to making recommendations regarding these areas we also recommended that the department should undertake a lessons learned exercise specifically in relation to the commercial and procurement activity it had undertaken during the first few months of the Covid-19 pandemic. As a result, The Standard Operating Procedure – Emergency Procurement Playbook has been put in place. The purpose is to enable new programmes requiring DHSC Commercial oversight to be quickly set up with the appropriate commercial controls established and understood by delivery staff and partners. This is based in part on Commercial Group's lessons learnt activity to the response to the Covid-19 pandemic.

The Playbook specifies:

- The mandatory minimum requirements and the required level of approval by departmental officials for key governance and control arrangements;
- that the SRO should ensure that accountabilities are formalised so there is complete clarity in respect of exactly what approval, due diligence and governance arrangements are expected of each team working on the project, whether this is departmental staff or staff deployed to support from other Departments, and
- that existing DHSC commercial policies and governance structures should be complied with.

We consider that the development and implementation of the Playbook will enable the department to ensure that any future emergency procurement activity will be subject to appropriate governance and oversight and will therefore reduce the risk of any future non-compliance and reputational risk.

The Playbook is divided into four sections:

- **The Accountability Framework** specifies the key governance requirements such as confirmation of the Accounting Officer and Senior Responsible Officer for the programme, delegations of financial and commercial approvals, managing Conflicts of Interest and Contractual Indemnities and the requirement to establish second line of defence teams to provide risk-based checks on the decisions and documentation produced by the front-line teams. Responsibilities for these actions are variously allocated to the Permanent Secretary, Finance Director General and Programme SRO. The Playbook states that each of the 12 requirements in this section requires sign off by the department's Commercial Group Director General.

  Due to the need to onboard people at pace during the height of the pandemic, the department acknowledges that **Conflict of Interest** declarations were not always completed by staff and officials who were involved in procurement activity.

  Subsequently the department worked with the Cabinet Office to publish a Procurement Policy Note – 'Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing (PPN 04/21)'(May 2021). The PPN takes account of the recommendations from the NAO's Investigation into Government Procurement During the COVID-19 Pandemic published in November 2020 and the findings of the Boardman Review published in December 2020.

  To support this the department's "Managing Conflicts of Interest in Procurements - A guide on how to prevent, identify and manage conflicts of interest during procurement and contract management" was published in November 2021, supported by training, and provides comprehensive guidance to all staff members involved in procurement and contract management. We are satisfied that this will increase the Department's ability to ensure propriety, probity and compliance with the standards documented in Managing Public Money.

  However, for departmental staff outside of the procurement/commercial process there is a requirement to complete a Conflict of Interest (CoI) declaration on D365. We understand that this element of D365 did not become active until late January 2022. We have asked the department to confirm that the report is now being run and that action is being taken to ensure that all staff have completed the declaration and at the time of our fieldwork we had not yet received a response. However, post fieldwork we were informed that following the launch of the report functionality to establish CoI completion rates, the Departments plan is to conduct 6 monthly reviews following the beginning and mid points of the financial year (April and Sept). **See Recommendation 1**

  In relation to **Contractual Indemnities**, the department agreed a number of these in the early days of the Covid-19 pandemic, without HM Treasury (HMT) approval, and beyond what would be usually considered acceptable to facilitate the purchase of PPE and other services. However, since then the department has sought approval for the indemnities used from HMT and to renegotiate the contracts on expiry to reduce the contractual liabilities facing the department. Of the original 16 contracts with exceptional indemnity arrangements, seven had yet to be approved or re-negotiated. The seven contracts related to the provision of staff to perform testing and also to support testing and laboratory services.

Since then, the department has continued to progress this work, providing HMT, the Public Accounts Committee and the Health and Social Care Select Committee with updates. All seven contracts have now been approved by HMT. The exercise included the scope and extent of the liabilities in the original agreements and there has been a significant reduction in the level of financial risk that the department is exposed to. As was reported in the department's Annual Report and Accounts for 2020-21 none of the initial contractual liabilities for these contracts resulted in any claims against the department.

- **The Project Delivery** section specifies that all commercial activity delivered within the programme must adhere to the governance arrangements and policy procedures as agreed at programme set-up as per the Accountability Framework. Any deviation from these must be documented and be agreed in advance by the Commercial Group Director General. This section has 7 requirements, which include Supplier Due Diligence, which is the responsibility of the Programme SRO.

  The Supplier Due Diligence section specifies the mandatory requirements for a number of areas where we have indicated there are weaknesses. These include:

  - checks on VAT registration;
  - bank account checks;
  - Politically Exposed Persons and extended party transaction checks; and
  - implementing routines to identify any trends which may indicate fraud.

- **The Business Cases and Approvals** section specifies that that all business cases must be compliant with the department's governance requirements for investment, whether this is interim support on a programme or for specific assets. The department's Commercial Category Leads should be contacted to understand what business case and approval is required, in particular whether Cabinet Office and HMT approval is required. This section includes risk management and risk appetite.

- **The Programme Close** section specifies that in all circumstances programmes should be closed in a manner which is auditable and where any existing activity remains, this should be transferred into a BAU environment.

In relation to the key weaknesses we identified, the department has undertaken an effective lessons learned exercise in relation to the procurement activity undertaken at the height of the pandemic and has subsequently clearly articulated and documented the key requirements which must be complied with.

Assessed risk 5

Failure to act on findings from the department's Covid Lessons Learned exercise may mean that control weaknesses, non-compliance and inefficiency remains bringing increased risk of additional cost / penalties being incurred as well as potential reputational damage.

Opinion on management of risk

Limited

The department undertook a ways of working review in the summer of 2020 to learn lessons about incident response in the first part of the pandemic which involved interviews with Ministers and senior officials and resulted in 72 recommendations. The department should assure itself that it has taken steps to implement the review's highest priority recommendations where they are proportionate and still relevant.

Although the Department has been subject to scrutiny in relation to its response to the Covid19 pandemic (by e.g. the NAO, the Public Accounts Committee (PAC) and the Health and Social Care Committee), in the summer of 2020 it also carried out an internal ways of working review to learn lessons about incident response during the first phase of the pandemic. Its goal was to learn lessons which would inform the response to further phases of Covid19 as well as future non-Covid incidents.

The review resulted in 72 recommendations being made, grouped into key themes (e.g. organisation, people and skills, governance, data). Draft findings and recommendations (with action owners and target implementation dates) were presented to ExCo, the Departmental Board and the Secretary of State in September 2020.

In early 2021 a light touch 'temperature check' took place to review progress in implementing the recommendations – this was considered proportionate given pressures faced by teams across the department working on the Government's response to the pandemic. This process found that almost two thirds of the recommendations had been completed with action ongoing in the large majority of the remainder that had not been superseded by events.

However, recommendation owners were not asked to provide supporting evidence to confirm either progress with or implementation of the recommendations. Some respondents provided a narrative reply which explained the position in some detail, but others simply confirmed that implementation was complete without further detail or explanation. The department should assure itself, taking a risk-based approach, that high priority recommendations, where proportionate and still relevant, have been implemented appropriately. **See Recommendation 2**

Assessed risk 6

Failure to implement the internal audit recommendations (39) arising from the GIAA Covid related work in a timely manner means that the amount of risk which the Department is carrying increasing with inefficiency and effectiveness of process or control and potential reputational damage as a consequence.

Opinion on management of risk

Moderate

The department has undertaken significant work to implement the recommendations that we made as part of our Covid19 reviews. Risk exposure has reduced, with 77% of actions implemented, although there is still some residual risk pending the completion of all actions.

The department has been subject to great pressures due the need to respond to the pandemic, which has sometimes resulted in delays to implementation, but 30 recommendations out of 39 have been implemented to date (a further 3 transferred to UK Health Security Agency (UKHSA). Progress with the remaining 6 (3 rated High Priority and 3 Medium) are being monitored and discussed with the owners and we urge that these are given priority attention.

As a result of our Covid related reviews we made 39 recommendations, 30 of which have been implemented and have been 'closed' by us following receipt of evidence to support full completion of the action. The current status is shown below (see Annex 1 for more detail).

New governance arrangements supporting delivery of the DHSC Battle Plan and Covid decision making audit trails	**H**	**M**	**L**
Recommendations made	2	2	-
Recommendations implemented	1	2	-
Recommendations overdue	**1**	**0**	-

Risk and Control Deep Dives (including due diligence)	**H**	**M**	**L**
Recommendations made	15	15	-
Recommendations implemented	14	12	-
Transferred to UKHSA (Test & Trace)	1	2	
Recommendations overdue	**0**	**1**	-

Analysis of Personal Protective Equipment (PPE) Issues	**H**	**M**	**L**
Recommendations made	3	2	-
Recommendations implemented	1	0	-
Recommendations overdue	**2**	**2**	-

Up until mid-2021, there was a lack of engagement from the Department in providing updates and supporting evidence to confirm either progress with or implementation of recommendations. However, there has been a significant improvement in recent months due to the Second Permanent Secretary's focus on reducing the number of overdue recommendations. We have also been working with action owners to ensure that there is active monitoring of implementation progress, thereby avoiding actions becoming overdue if at all possible.

Of the 6 actions which are overdue all have had the implementation date extended to 31st March 2022:

- 4 recommendations relate to PPE. (quality checks, product specification, stock strategy and record keeping). Completion of these has been progressing and is linked to finalisation of the Department's PPE Strategy, which is currently at draft stage (based on the most recent updates received in December 2021). We have highlighted this as an area that needs priority focus over the coming weeks.
- 1 recommendation relates to the completion of chronology documents in respect of the covid response. These have taken time to produce but we are satisfied that the Inquiry

Preparation Unit are now actively driving this forward to ensure that any remaining gaps are addressed. This work is expected to conclude in March.

- 1 recommendation advised that the root cause of non-compliance with due diligence processes should be looked into to inform improvement action. As part of our recommendation follow up activity with the department, we have been advised that as many of the staff involved in the early procurement and due diligence activities, where non-compliance had been identified, were on loan from other departments and were no longer in place that it would be challenging to identify the root causes for it. This issue will therefore be addressed this through ensuring that appropriate training is in place for current and future team members. Action is in train to develop and source appropriate training to reduce the risk of non-compliance in future procurement activity.

We continue to receive regular updates and supporting evidence where available to confirm that progress is being made.

Annex 1: Overdue Recommendations as of February 2022

Audit	Recommendation	Priority	Management Response, and Implementation Date	Fully Implemented / Closed
DHSC Covid-19 Response – Battle Plan Governance and Decision Making Audit Trails	Recommendation 3 – **Chronology documents** need to be completed and subject to review to ensure they conform with the framework that outlines the required construction of such documents in order to provide a strong and consistent audit trail of events.	High	PMO to commission all SROs to give assurance to the Oversight Board of having completed chronology documents as per framework 28 February 2021	No Original date 28/02/2021 – revised date 15/04/2021, 31/07/2021, 31/10/2021 and 31/03/2022. Responsibility for ensuring that the action is completed has transferred from the Battle Plan PMO to the Inquiry Preparation Unit who as part 3 of their programme of work (in March 2022) are working with Battle Plan Teams to finalise chronologies .
Pandemic PPE Advisory Review	Recommendation 2 – **Quality Checks** The end to end quality assurance regime for influenza pandemic stockpile items should be defined, documented, and enacted (with appropriate consultation with specialists such as the Health and Safety Executive, Clinicians etc). Processes and practices should be introduced so that appropriate quality checks are undertaken across the lifecycle of the product from point of purchase to issue into use. Processes should recognise that different testing regimes will be required for each product. Regular assurance reports to be produced and shared with the appropriate governance forum on the quality of items held within any PPE stockpile.	High	–Agree to implement as per the recommendation 30 November 2020	No Original date 30/11/2020 – revised date 31/05/2021 and 31/03/2022. This will be addressed on finalisation of the revised PPE Strategy
Pandemic PPE Advisory Review	Recommendation 3 - **Product Specification and Certificates of Conformity** Responsibility for defining and updating product specification for products held in the influenza Pandemic stockpile should be formalised. There should be greater	High	–as Agree to implement per the recommendation 30 November 2020	No Original date 30/11/2020 – revised date 31/05/2021 and 31/03/2022.

	clarity of understanding regarding current product specification at procurement stage, following which clear protocols should be put in place to ensure certificates on conformity for PPE stockpile products clearly describe or link to the actual product which has been purchased (based on the agreed specification).			This will be addressed on finalisation of the revised PPE Strategy
Pandemic PPE Advisory Review	Recommendation 4 - **PPE Stockpile Replenishing Strategy** PPE stockpile replenishing strategy should be agreed, produced, and implemented to ensure all items held in the stockpile have a defined durable lifespan and to ensure that there is no wastage.	Medium	Yes - as per the recommendation 31 January 2021	No Original date 31/01/2021 – revised date 31/05/2021 and 31/03/2022. This will be addressed on finalisation of the revised PPE Strategy
Pandemic PPE Advisory Review	Recommendation 5 – **Documentation/Audit Trail** Retention protocols relating to documentation covering the procurement and up-keep of the influenza pandemic stockpile (including applicable quality standards/reports) should be reviewed and revised. A risk assessment of the destruction of contractual records should be undertaken to ensure that action taken is commensurate with accountabilities (per National Archives advice). Key documents should be retained until products have expired or have been used.	Medium	Yes - as per the recommendation 31 December 2020	No Original date 31/12/2020 – revised date 31/05/2021, and 31/03/2022. This will be addressed on finalisation of the revised PPE Strategy
DHSC Risk & Control Deep Dives (COVID-19)	Recommendation D5 -Due Diligence - **Tracking Compliance** It would be prudent to trace significant non-compliance issues identified in relation to the due diligence process back to the employee level source to ensure that any important additional context for the non-compliance is captured. Advice and training may also be warranted to ensure that there is no further non-compliance.	Medium	DHSC have identified a need to develop a commercials training course for staff, which will be put out to tender. 31 March 2021	No Original date 31/03/2021 – revised dates 31/12/2021 and 31/03/2022

Annex 2: Management action plan

Recommendation(s)		Priority	Action agreed	Implementation date	Owner
1	The department should run a report on Conflict of Interest declarations and take action to ensure all staff have completed the declaration.	Medium	Action agreed - 6 monthly Conflict of Interest reviews (via D365 reports) to be completed following the beginning and mid points of the financial year (April and Sept).	30/4/22	Mark Graves
2	The department should assure itself, by taking a risk-based approach, that high priority recommendations, made as part of the ways of working review which are proportionate and still relevant, have been implemented appropriately.	Medium	Action agreed	30/11/22	Marc Cavey

Annex 3: Objective, scope and limitation

Objectives

The objective of this follow up review was to provide assurance that the department has effectively addressed some of the key issues identified in relation to its response to Covid based on the output from the GIAA advisory reviews, and that it has implemented a robust control environment to mitigate and minimise risks.

Scope and limitations

The scope of this audit included review and testing to ensure that adequate controls are in place in respect of the following:

- **PPE equipment** – focus on updated/revised governance structures and oversight arrangements including quality assurance frameworks;
- **Battle Plan Decision Making** – focus on updated/revised governance structures and oversight arrangements regarding evidence based audit trails;
- **Covid related internal audit recommendations** – assessment of progress in respect of the management, monitoring and oversight of audit recommendations to mitigate key risks and issues;
- **Lessons Learned exercise** – assessment of the oversight and governance processes to ensure that outputs from lessons learned activity have been acted upon;
- **Due Diligence Conflicts of Interest** – evaluation of the checks undertaken to ensure that individuals onboarded to work in DHSC have completed the Conflict of Interest declaration; and
- **Contractual Indemnities** – assessment as to whether retrospective and timely actions in relation to contractual indemnities are effective.

Exclusions from Scope

This review only focused on the approach that the department has taken in relation to the Covid GIAA recommendations and did not include an assessment of any broader elements of Government policy or the department's response to the pandemic. We did not review progress with implementation of recommendations in relation to Information Governance due to the work that the Information Commissioner's Office is undertaking in relation to NHS Test and Trace.

Distribution

Clara Swinson –Director General Global Health Group
Jonathan Marron –Director General OHID
Melinda Johnson –Director Commercial Group
Peter Howitt – Director PPE Policy and Strategy
David Whineray – Director Covid Programme
Jenny Richardson – Director of Human Resources
Jen Nichols –Deputy Finance Director
Name Redacted – Group Chief Internal Auditor – GIAA
Name Redacted – Deputy Head of Internal Audit - GIAA

Andy Brittain –Finance Director General (Final report)
Shona Dunn –Second Permanent Secretary (Final report)

Annex 4: Our classification systems

Substantial

Substantial

The framework of governance, risk management and control is adequate and effective.

Moderate

Moderate

Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control.

Limited

Limited

There are significant weaknesses in the framework of governance, risk management and control such that it could be or could become inadequate and ineffective.

Unsatisfactory

Unsatisfactory

There are fundamental weaknesses in the framework of governance, risk management and control such that it is inadequate and ineffective or is likely to fail.

Recommendation

Priority	Definition	Action required
High	Significant weakness in governance, risk management and control that if unresolved exposes the organisation to an unacceptable level of residual risk.	Remedial action must be taken urgently and within an agreed timescale.
Medium	Weakness in governance, risk management and control that if unresolved exposes the organisation to a high level of residual risk.	Remedial action should be taken at the earliest opportunity and within an agreed timescale.
Low	Scope for improvement in governance, risk management and control.	Remedial action should be prioritised and undertaken within an agreed timescale.