

**UK COVID-19 PUBLIC INQUIRY
BEFORE BARONESS HEATHER HALLETT IN THE MATTER OF THE PUBLIC INQUIRY TO EXAMINE
THE COVID-19 PANDEMIC IN THE UK**

**ORAL OPENING STATEMENT BY CHRIS SMITH MCIPS, HEARING ON MODULE 5, GOVERNMENT
PROCUREMENT**

Hearing Date - 3rd March 2024

On behalf UK ANTI-CORRUPTION COALITION and PARTNERS

My Lady.

Thank you for giving the UK Anti-Corruption Coalition the opportunity to speak today. I am Chris Smith, a public procurement consultant and a member of the Chartered Institute of Procurement and Supply who, among many other procurement projects over four decades, procured PPE for the UK-funded Ebola Treatment Centres in Sierra Leone in 2014.

The UK ACC is a core participant in this module. We have submitted a 180-plus-page Rule 9 response to the Inquiry, which includes eight lessons learned and recommendations for the Inquiry to consider. We have already made opening statements at the two preliminary hearings and have been invited to give evidence tomorrow, for which we are very grateful. One of our members, Transparency International UK, recently published a report, Behind The Masks - Corruption Red Flags In Covid-19 Public Procurement, which we have already shared with the Inquiry.

My Lady, the UK ACC speaks truth to power, and we hope the work we are doing to support the Inquiry will help to get power to speak the truth, no matter how uncomfortable that truth may be for the government because by doing that, we are convinced valuable lessons will be learned and future lives saved.

On 20 March 2020, Gavin Hayman of the Open Contracting Partnership, a member of the UKACC, published an article titled "Emergency procurement for COVID-19: Buying fast, open and smart" with a number of constructive and practical suggestions. The vaccine procurement is widely considered to have been a huge success story, a miracle and a lifesaver. In contrast, the public and media perception is that PPE procurement wasn't open or smart, and the words profiteering, cronyism, incompetence, vested interests, secretive, corrupt, ineffective, hugely wasteful and even cover-up are more likely to spring to mind in the public consciousness.

Foremost in our minds in applying to become core participants was our collective belief that lives were unnecessarily put at risk and lost, and taxpayers' money wasted on a colossal scale because of the approach the UK took to the purchase of PPE. In the spectrum of items procured by the government, from atomic bombs to zero-emission buses, we say that PPE should not be a difficult category to buy properly. We note that the NHS was procuring large amounts of PPE before the pandemic for its day-to-day needs, and the PPE requirements, such as masks, aprons, and gloves, were straightforward and not, unlike COVID-19, novel.

Yes, during a pandemic, the prices may be high, and yes, the availability may be a severe constraint, but following standard best practice procurement principles and techniques, it should have been possible to avoid many of the problems that manifested themselves, e.g. incorrect supply, non-compliant packaging, numerous contractual disputes and a massive right off of taxpayers money. It seems reasonable to assume that such problems impacted the availability of PPE in healthcare settings and care homes with, in some cases, tragic consequences.

We say that the government's outsourcing of PPE sourcing to UK traders who, in some cases, had no prior experience supplying PPE, or in some cases prior existence, was a reckless strategy that should at least have been mitigated by a payment conditional on a pre-shipment inspection. This pre-shipment inspection never happened, and many of the quality problems were only discovered after the PPE arrived in the UK and the supplier paid in full. This approach increased the risk of shortages of usable PPE and posed a substantial fiscal risk which materialised.

We say that there is a continued lack of transparency concerning COVID-19 PPE contracts. The government failed and continues to fail to meet its transparency obligations by publishing copies of all PPE contracts in full. Supply Chain Coordination Ltd has never published many PPE contracts worth billions of pounds, and most others issued by DHSC have only been partially published. We have concluded that this is due to a toxic mix of bad record keeping, indifference, complacency and maybe even self-interest by the organisations concerned. We also surmise that, in some cases, contracts don't even exist, which, if true, is worthy of further investigation by the Inquiry. We would like to reiterate our serious concern that the procurement of some £10bn of COVID-related 'services' contracts, many also awarded without competition, remains out of scope for Module 5 on procurement.

Services contracts surrounding test and trace centres involved the provision of testing services as well as lateral flow tests and logistics for PPE, e.g. freight, storage and disposal of unusable PPE and procurement consultancy contracts. Yes, equipment and supplies are important, but services must be addressed by the Inquiry too. The response from the Inquiry at the time was that a better approach would be for any such procurement to be addressed on a module-by-module basis as appropriate. We disagree and have not seen publicly available evidence concerning the investigation by the Inquiry into the procurement of £10 billion services contracts in any of the other modules, nor are we aware that the Inquiry is investigating the procurement for the Nightingale Hospitals, where there remains a woeful lack of transparency and accountability.

Whilst we welcome the inclusion of procurement case studies, we are very concerned, like other CPs, that few, if any, suppliers have been asked to submit evidence, and none that were involved in supplying PPE. We feel very strongly that, whilst the government side of procurement is important to scrutinise, in order to get to the bottom of what went wrong, the Inquiry must have evidence in front of it from the supplier side because, to put it frankly, we believe in many cases serious mistakes were made by the government that may have led to incorrect supplies of PPE. For example, many government PPE contracts lacked a proper technical specification, which

increased the risk of an incorrect supply. High Court documents in the public domain for the PPE Medpro contract suggest this is a real possibility.

We appreciate that this is a sensitive area with ongoing fraud investigations. Some concluded confidential government negotiations with suppliers. Still, we consider it vital to understand what happened from the supply side and remain puzzled at the Inquiry's decision not to request evidence from PPE suppliers. To us, this decision appears inconsistent with the Inquiry's approach to the ventilator contracts, where suppliers have been asked to give evidence.

As Core Participants, we express serious concerns and dismay about the UK Government's repeated delays in providing vital evidence to the Inquiry, which was discussed during the second preliminary hearing. These delays must have significantly impacted the Inquiry's ability to conduct a comprehensive investigation into procurement practices during the pandemic, undermining its effectiveness and the public's right to full accountability and transparency.

The delays have also affected our ability as Core Participants to review the evidence comprehensively and fully support the Inquiry's work, as much of it remains missing.

Central Government departments' disclosure failures have forced the Inquiry to deviate from its preferred approach of thoroughly examining the chronology of key contracts. This deviation creates a dangerous gap that risks diluting the depth of scrutiny and limiting the Inquiry's capacity to expose systemic issues, learn lessons, and prevent future failings.

This unacceptable situation is particularly concerning considering that Prime Minister Keir Starmer said in July 2024 that *"The safety and security of the country should always be the first priority, and this government is committed to learning the lessons from the inquiry and putting better measures in place to protect and prepare us from the impact of any future pandemic."* We are concerned that the interest of central government departments is, for them, the first priority and we find their excuses unconvincing and concerning. We appreciate your Ladyship's continued efforts to obtain all the requested evidence.

These delays frustrate the Inquiry's mandate and risk further erosion of public trust in government accountability following one of the most challenging periods in recent history.

We call on the government, which was very vocal about the previous government's lack of transparency, to ensure that central government departments fulfil their disclosure obligations urgently. The Inquiry and the public, particularly the bereaved families, deserve a full and transparent account of decisions made during the pandemic.

The Inquiry's findings and recommendations are critical to ensuring that lessons are learned and government departments implement safeguards to prevent the misuse of public funds and poor procurement that put lives at risk in future emergencies. We say that the government and the Department for Health and Social Care, in particular, must demonstrate commitment to transparency and accountability by fully cooperating with the Inquiry without further delay. We call on the Secretary of State for Health and Social Care to make sure this happens.

The PPE VIP lane was created by politicians who went far beyond the call of duty to help and strayed into dangerous territory that, in some cases, introduced significant additional risks for the NHS, healthcare workers, patients and taxpayers that materialised. In opposition, the current Government tabled many amendments to the draft Procurement Bill to outlaw VIP lanes. These amendments were rejected and have not been addressed by the current government in regulations or guidance, and the risk of the government resorting to VIP lanes during some future crisis remains something we hope the Inquiry will consider. However, we ask that the Government not wait for your report and instead develop and publish regulations or guidance, or perhaps in the form of a procurement policy note, prohibiting the use of VIP lanes. In opposition, the Labour Party committed to "*..follow in Ukraine's footsteps and publish an accessible dashboard of Government contracts that is available to anyone as part of our public works pledge.*" The central digital platform is not sufficient, and we call on the Cabinet Office to establish a citizen-friendly dashboard so that they can monitor public contracts, including emergency contracts, during any future crisis.

We note the stark contrast between Astra Zeneca, which sold its vaccine at cost, and British suppliers of PPE, who, in some cases, exploited the situation, took advantage of the government and NHS's vulnerable position, and profiteered at the taxpayer's expense, while in some cases also failing to deliver usable PPE. Such behaviour was shameful, and these mainly UK companies let the country down in its hour of need. We hope that the Covid Corruption Commissioner will be able to recoup some funds for the taxpayer, but after 5 years, we are realistic that the chances become less as each day passes, and again question why only one PPE contract has been taken to the High Court.

Finally, we wish to pay tribute to the work of the Good Law Project, certain parts of the media, independent journalists, MPs and members of the House of Lords, who worked tirelessly to hold the government accountable and expose many of the issues of concern about its approach to procuring PPE to the public and the Inquiry's scrutiny. Lives were without doubt lost due to very bad and reckless procurement decisions made by the government and unscrupulous and greedy suppliers, and we urge the Inquiry to leave no stone unturned to help ensure this never happens again. The families of the bereaved and the wider public deserve nothing less. The pandemic was unavoidable, but the sometimes chaotic and ineffective maladministration of the procurement of some PPE most certainly was.

We are at your disposal for any clarification or additional information that you or your team require. Thank you.

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