

IN THE UK COVID-19 PUBLIC INQUIRY
BEFORE BARONESS HEATHER HALLETT
AND IN THE MATTER OF:

MODULE 5 OF THE INQUIRY (PROCUREMENT)

**OPENING SUBMISSIONS ON BEHALF OF
NHS WALES SHARED SERVICES PARTNERSHIP (NWSSP)**

1. NWSSP is itself an integral part of the NHS. It provides a wide variety of services to the NHS in Wales as a whole. Its purpose is to co-ordinate and deliver services required by all NHS bodies in Wales at a national level. One of its responsibilities is procurement, delivered through a dedicated Division, Procurement Services, whose Director has been called to give oral evidence to the Inquiry. Other Divisions or departments of NWSSP which contributed to the procurement and distribution of key healthcare equipment and supplies during the pandemic include the Surgical Materials Testing Laboratory (SMTL) and Specialist Estates Services.
2. NWSSP began operating in April 2011 and therefore when the pandemic occurred it provided an established structure, staffed by those with relevant expertise, for meeting procurement needs. Formally NWSSP is hosted by Velindre University NHS Trust. It has a Partnership Committee on which all Health Boards, Trusts and Special Health Authorities in Wales are represented. The Partnership Committee has appointed an independent Chair and there is a Senior Leadership Group consisting of the Directors of each Division and a Managing Director with overall accountability for the services provided.
3. In essence NWSSP's role during the pandemic was to implement decisions made by the Welsh Government (WG) or the United Kingdom Government (UKG) on the type of products to purchase, the amounts needed, and the destination of those products once acquired. It was NWSSP's function to source those products, and to store and distribute

them as required. During the pandemic NWSSP was responsible for the procurement in Wales of PPE, ventilators (as part of a four nations group) and oxygen; procurement of LFT and PCR tests was undertaken by WG, but NWSSP had a role in their storage and distribution.

4. Before the pandemic NWSSP was not responsible for the procurement of products which might be necessary in the event of a pandemic; it was responsible for so-called business as usual (BAU) procurement. The PIPP stockpile, which included PPE, medicines and medical consumables, was procured by WG through central UKG arrangements; NWSSP was responsible only for its storage and, if necessary, distribution. In the very early stages of the pandemic there was an expectation in Wales that the requirement for additional PPE would be sufficiently met from a central UKG allocation; this rapidly proved not to be the case, and by about 20 March 2020 NWSSP had assumed responsibility for procurement of PPE.
5. During the pandemic NWSSP not only assumed wider responsibility for procurement of products required by secondary healthcare providers in Wales, it took on, at the direction of WG, the function of procurement and distribution for primary care contractors such as GPs, dentists, pharmacists and opticians and for local authorities and social care organisations outside the healthcare sector.
6. In the years before the pandemic there had been significant investment and support by WG; work was undertaken to provide resilience and business continuity as part of preparations for Brexit. In particular contingency stockholdings of BAU goods were increased and held in a new storage and distribution facility in Newport which proved to be of great value during the pandemic. NWSSP entered into contracts for the supply of goods and services on behalf of the health service in Wales as a whole, known as “All Wales” contracts. These contracts provided a degree of flexibility to increase the volume of products to be supplied at a time of increased need.
7. The early stages of the pandemic were however a time of particular difficulty, with worldwide demand significantly exceeding supply, and prices accordingly at high levels. It was necessary to ensure the quality of the product and the reliability of the supplier while at the same timing moving quickly to secure the contracts in a highly competitive, suppliers’ market. NWSSP therefore modified and reinforced its systems

and procedures for the award of contracts. It rapidly increased the threshold contract value above which approval was needed from the Velindre Trust Board from £1m first to £2m and then to £5m; contracts below this threshold could be approved on the delegated authority of the Chair and Managing Director or Director of Finance of NWSSP. A new Finance Governance Group (FGG) was established consisting of senior representatives of NWSSP, Velindre Trust Board and the Head of NHS Counter Fraud Services in Wales, with the stated aim of monitoring procurement expenditure related to the pandemic and assisting the contract decision-maker; the focus of the FGG was on higher value contracts and those potentially carrying a higher risk.

8. It was an inevitable consequence of the state of the market at the start of the pandemic that a substantial number of offers to supply PPE were made to NWSSP by new suppliers. The system for the evaluation and approval of potential suppliers was applied to all; there was no twin-track high priority lane in Wales, the Auditor General for Wales confirming in his report of April 2021, *Procuring and Supplying PPE for the COVID-19 Pandemic* that he had found “no evidence of such an approach or of suppliers getting preferential treatment because of the person referring them.” In their investigation the auditors found one example where one of the directors of a supplier was known to one of NWSSP’s assessors; this had been appropriately declared in the advice to decision makers. All NWSSP staff involved in the assessment process were required to complete a declaration of interests form.
9. All offers to supply PPE were required to be made via a central NWSSP email address, and each potential supplier had to complete a standard triage form. Information had to be provided about the product itself, delivery timescales, stock availability and price. The onus was placed on the potential supplier to provide information about compliance with legal and regulatory requirements, including certification where appropriate. If the form was not completed, and any necessary documentation supplied, within 3 working days of the initial approach, the offer was not considered further. Initial assessment by the Triage Team included verification through Companies House of the potential supplier’s existence, and that there were no concerns about financial viability, although it is acknowledged that in the case of very new suppliers information available through Companies House could be limited. The documentation provided by the supplier was itself scrutinised for signs of possible fraud, with a short opportunity being

given to explain any concerns. Only those offers which passed this initial assessment moved to the second stage, which was carried out by SMTL with its special knowledge and expertise. SMTL checked the competency of the laboratories named in the testing certificates supplied, and carried out its own check of the authenticity of the documentation, and that all legislative and regulatory requirements applicable to the product in question had been satisfied. SMTL carried out its own laboratory assessment of some products. At the conclusion of the second stage SMTL prepared a report indicating whether the offer had passed or failed the assessment, with reasons.

10. The above process, from initial contact to final approval, took an average of 10 days, with SMTL's technical assurance checks usually taking not more than 48 hours except where it was necessary to obtain further information from a third party. If the offer passed the second stage of assessment, the supplier would be contacted to confirm delivery times, quantities available and price. The volatility of the market in the early stages of the pandemic meant that the first and second of these may have materially changed in the several days between the initial approach and the completion of the triage process; if they did not meet current requirements the offer would not be considered further. Price was considered at this point, having regard to the availability or otherwise of alternative sources of supply, the volume of product required and current stock levels. The scope to negotiate on price was particularly restricted in the early stages of the pandemic due to the state of the market, but NWSSP sought to do so where possible; opportunities to negotiate, having regard to volumes of product ordered, prices paid to competitors and method of transportation, increased over time.
11. NWSSP entered into contracts with suppliers under NHS Wales standard terms and conditions of contract. Decisions about any advance payments were made by the FGG, having regard to all available information. In some substantial contracts financial risk was mitigated by arrangements under which staged payments would be made from an escrow account.
12. The Auditor General endorsed the above arrangements as enabling NWSSP to make swift decisions and supply PPE quickly. His team reviewed a sample of 16 contracts let by NWSSP, including some larger and/or more risky contracts reviewed by the FGG. It was found that in all reviewed cases there was a documented evidence trail,

identifying the key issues and how they would be managed. All reviewed decisions were found to have been made in line with the required processes, and the subsequent approvals made in line with the scheme of delegation and WG requirements. For all reviewed contracts there was evidence of key due diligence checks being carried out, including background checks on the companies involved. In the sample under review the companies awarded the contracts were found at least to have formal links to others with experience in the PPE market, or to have directors with what was described as credible direct access to PPE manufacturers.

13. Contracts with a total value of about £305m were awarded during the pandemic for the supply of PPE from 33 suppliers. Of these 29 performed their contracts in full; the remainder are the subject of legal action or review, or the dispute has been settled. Total expenditure on ventilators was about £4m, and on oxygen supplies about £5.25m. In the early stages of the pandemic about 65% of PPE was procured through direct awards of contracts necessary in order to obtain large quantities of PPE at short notice; the need for such direct awards reduced over time. Just In Time (JIT) contracts were not used at any stage.
14. The Auditor General's overall conclusion was that NWSSP had *“developed good arrangements to rapidly buy PPE, while balancing the urgent need to get supplies for frontline staff with the need to manage significant financial governance risks in an area of rapidly growing expenditure”*.
15. The Audit Wales report did however note that in some cases NWSSP had not met the requirements under emergency procurement rules to publish contract award notices within 30 days. NWSSP undertook an internal review and where necessary notices were published retrospectively.
16. While its focus was naturally on Wales NWSSP shared information regularly with those responsible for procurement in England and the other devolved administrations for mutual benefit. NWSSP acted on behalf of the UK as a whole in the procurement of Type IIR fluid resistant surgical masks; the aggregate volume of this product ordered achieved a lower price per unit than any known to have been paid at that time for masks of the required quality. As noted by the Auditor General, national stocks in Wales did

not run out, although at times they got very low. He pointed out that while at times Wales had drawn on mutual aid from other countries, ultimately it gave out significantly more than it received. Some of SMTL's work involved the assessment of the quality and efficacy of PPE for the benefit of the UK as a whole.

17. There was a positive working relationship between WG and NWSSP during the pandemic. WG acted quickly in support of funding decisions for PPE, continued to invest in the main warehousing facility in Newport and supported the need for NWSSP to have additional staff and vehicles in order effectively to manage the warehousing and distribution of PPE throughout the NHS and primary and social care locations in Wales.
18. The focus of these submissions has been on NWSSP's role in procurement during the pandemic, as opposed to its responsibility for storage and distribution, which are dealt with more fully in the written evidence which it has supplied to the Inquiry. In the area of procurement it took on at short notice and in difficult circumstances a significantly enhanced role, to which it applied its existing experience and resources. It has been found by external audit to have responded well to the increased demands placed upon it in the earlier stages of the pandemic, and it is not aware of any evidence that it evaluated offers for the supply of PPE and other products in anything other than a consistent, fair and objective manner. It nevertheless recognises the need for detailed scrutiny by the Inquiry of its important role in this area.
19. NWSSP recognises the human cost of the pandemic in terms of suffering, lives lost and the grief of relatives and friends left behind. That impact was felt by many of those working for NWSSP, whose employees demonstrated a real commitment to providing the best possible service at what was a very difficult time.

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