

UK COVID-19 INQUIRY

OPENING STATEMENT ON BEHALF OF THE UNITED KINGDOM HEALTH SECURITY AGENCY FOR MODULE 5

INTRODUCTION

1. The role of commercial teams in Government is an enabling one.¹ Commercial enables the policy and operational decisions, procuring particular products and/or services necessary for the continuation of services to the public, and maintaining operations on the ground. United Kingdom Health Security Agency (“UKHSA”) Commercial² also enables innovation through the engagement and fostering of relationships with industry and academia in the arena of developing diagnostics, therapeutics, and vaccines as a component of pandemic preparedness and wider scientific work UKHSA is already carrying out.
2. The Inquiry questions, of the procurement undertaken in response to the COVID-19 pandemic, whether the adequate balance between speed, quality, and cost was achieved?³ The question inevitably will be difficult to answer, especially when ‘quality’ in the award of contracts comprises of quality of the product or service, the commercial process, and the operational process. The COVID-19 pandemic was the single most significant public health emergency for a century. In an extraordinary emergency, finding the balance between the competing factors of speed, quality, and cost becomes ever more challenging.
3. The loss of speed risks greater human or economic losses. Speed may demand proactive purchasing of a testing product before the efficacy of the test can be confirmed, at risk that the investment will not prove effective. However, a novel, viable testing product may be more costly until the same product is more established in the market.
4. The critical need to get minimum viable products to the public, in the numbers and at the speed needed for the pandemic, mandated an innovation-driven commercial

¹ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.2; Statement of Jacqui Rock (INQ number to be confirmed) at ¶2.7.

² UKHSA’s Commercial Team.

³ Question 3, Section 2 of the Inquiry’s Final List of Issues for Module 5; Statement of Baroness Dido Harding (INQ000562339) at ¶5.4.

process. Whilst nevertheless procuring in compliance with the legal framework, the focus was on the procurement of quality product and services (for instance, all lateral flow device antigen tests - “LFD” - procured had gone through the validation process); the quality of the commercial and operations processes improved over time.

5. The risk appetite in an emergency is inevitably different to that in non-emergencies. Where speed is no longer paramount, more time can be spent on negotiating value for money, surveying high risk pathogens, and building systems capable of meeting the next pandemic. The next pandemic may involve a pathogen with very different characteristics to COVID-19. This may require different policy, operational and commercial responses, and scientific endeavour may have delivered new approaches to testing.⁴
6. Thus, mindful of the importance this Inquiry has rightly placed on looking forward, the question, and challenge, for any operational agency such as UKHSA is, “*what systems need to be developed for a better response to a future pandemic regardless of the pathogen?*”

PATHOGEN AGNOSTIC SYSTEMS

7. As UKHSA has explained in previous modules, the Agency is building systems that are pathogen agnostic and scalable, so UKHSA uses those systems and knowledge to respond to any new emerging infection.⁵ That is all the more important when considering the role that UKHSA Commercial plays in preparedness and will play in any future pandemic.
8. A public health agency must be able to procure effective diagnostic tests, vaccines and/or other therapeutics at speed and scale, unifying scientific and commercial expertise. This is demonstrated by work undertaken by Public Health England (“PHE”) and NHS Test & Trace (“NHSTT”) in the development of COVID-19 polymerase chain reaction (“PCR”) tests and LFD antigen tests during the COVID-19 pandemic, which the Inquiry has asked UKHSA to assist with in this module.
9. PHE, working with international collaborators, succeeded in developing a COVID-19 specific PCR assay at exceptional pace in January 2020, which went on to underpin

⁴ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.2.

⁵ Transcript of Professor Dame Jenny Harries evidence in Module 3, 6 November 2024, page 207, lines 23 to 25.

commercial COVID-19 PCR tests globally.⁶ Additionally PHE evaluated a variety of proposed COVID-19 tests,⁷ including putting 90 COVID-19 LFD tests through a multi-phase evaluation in five months.

10. Being able to identify whether someone is infectious is critical because it allows for the better use of mitigation measures, particularly when there is no established vaccine or known treatment. Identifying infected and infectious cases by the use of PCR tests in the NHS workforce facilitated the continuing availability of NHS key workers to support the NHS's response in the early days of the pandemic in 2020. It is estimated that, between June 2020 and April 2021, test, trace and isolate strategies prevented 1.2 to 2 million infections.⁸ Part of that capability arose from the development, procurement, and proliferation of LFDs. LFDs paved the way to reduce restrictions until the comprehensive development and roll-out of effective COVID-19 vaccines.
11. During the COVID-19 pandemic, it was vital to commence technical evaluations of multiple different testing products and platforms. The need for speed increases the willingness to buy products in advance or to progressing novel technologies through to evaluation, knowing that not every product yield success. As with vaccines, the political risk appetite to take investment risks by progressing and evaluating offers of, and making commitments to purchasing, testing technologies in the emergency meant there was a significant financial investment in response to COVID-19. This entrepreneurial approach allowed the UK to deploy LFDs at scale before most countries.⁹
12. However, as the next pathogen may require a very different type of test, the wider question post-pandemic is how one identifies *that* test more quickly and commercialise that technology more quickly.
13. UKHSA brings together the health protection elements of PHE with NHSTT. UKHSA unifies the scientific and commercial expertise in the procurement of testing technologies and services within a single executive agency. UKHSA's commercial business development function works with a range of partners to support the

⁶ UKHSA Corporate Witness Statement on Science and Technical Matters (INQ000518354) at ¶3.15.

⁷ UKHSA Corporate Witness Statement on Science and Technical Matters (INQ000518354) at ¶2.21 and 2.25.

⁸ Exhibit DH1/04, "The Canna Model" (INQ000262568), page 4.

⁹ Statement of Baroness Dido Harding (INQ000562339) at ¶5.17.

development and commercialisation of new products and processes.¹⁰ UKHSA provided and continues to provide scientific and clinical expertise as well as operational and commercial skills to support, initiate and deliver within its public health remit in order to contribute to pandemic preparedness and response,¹¹ as it did when it took over responding to the COVID-19 pandemic. This unified expertise does not have to be re-created for a future pandemic.

14. And, to be best placed to identify the type of test that may be needed in future and have a route to commercialise that technology more quickly, UKHSA has published its commercial strategy which recognises the need and plans for:
- a. Capable commercial systems: by deepening inhouse commercial expertise¹² and establishing commercial frameworks in place early including scalable contracts for key services.¹³
 - b. Partnerships: Establishing, fostering, and maintaining strategic relationships with industry and academia and involves UKHSA participating in the development of innovative science capable of being brought up to commercial scale.¹⁴
 - c. Transparency: Improved and more transparent systems for routine procurement which enhances industry confidence in UKHSA as a partner and public confidence in the good use of public monies.¹⁵

CAPABLE COMMERCIAL SYSTEMS

15. The Chair will hear evidence that competition for civil service commercial expertise was fierce during the pandemic response and made more challenging for NHSTT because of it is perceived time-limited role at the outset. In any future pandemic, UKHSA is unlikely to face the same issues as NHSTT while it remains an established operational agency with its own commercial function. During the COVID-19 pandemic, UKHSA was a new organisation developing its commercial practice. Since it became operational, UKHSA Commercial has developed policies, processes, governance, and guidance. UKHSA has in place an Emergency Procurement Procedure's policy. This established expertise has allowed the commercial team to support a contingency planning team to identify available diagnostic tools that UKHSA's science teams could rapidly validate,

¹⁰ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶2.13.

¹¹ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.2.

¹² UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.30.

¹³ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.16.

¹⁴ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.23.

¹⁵ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.25.

in response to the outbreak of Highly Pathogenic Avian Influenza H5N1 in US cattle herds in 2024.¹⁶

16. UKHSA is and remains a part of the Government Commercial Function (“**GCF**”), as was the predecessor NHSTT. UKHSA Commercial staff work in compliance with the public procurement legal requirements and central standards, informed by their training and accreditation.
17. Senior commercial practitioners in UKHSA – as across government - are required to be assessed and accredited by the Government Commercial Organisation (“**GCO**”). One of UKHSA’s priorities in its commercial strategy is ‘developing UKHSA’s commercial capability’, including by working with the GCF as well as professionals internally.
18. Commercial work necessarily requires commercial staff to exercise expert judgement in evaluating and negotiating contract offers and terms. UKHSA has started the implementation of a commercial maturity training programme for UKHSA Commercial staff relevant to their roles, including accreditation under the Cabinet Office Contract Management Capability Programme,¹⁷ further training in fraud risk management, and training on how to implement the routes available under the Procurement Act 2023 when the latter comes into force on 24 February 2025. The skills and capabilities developed through the GCO, GCF and UKHSA’s commercial maturity training programme are aimed at ensuring consistent expertise across the commercial staff across Government. It allows for the exercise of commercial acumen and judgement that also gives prominence to accountability and safeguards against vulnerabilities that exist in any commercial process. The recruitment and development of a professional and appropriately resourced commercial function in UKHSA provides the core commercial capacity to respond to a future pandemic, that can be scaled if necessary for any future health threat with the support of the GCO.
19. The vast numbers of the personnel required to respond to COVID-19 in the commercial and operational teams, distributing tests across the nation, would be extremely costly to maintain through non-emergency times. UKHSA recognises that in this post COVID-19 environment, risk appetites and funding priorities will rightly change. It is for elected

¹⁶ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶18.35.

¹⁷ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶17.9 and 8.32.

decision makers to decide where future efforts should be focused and to what extent such efforts should be resourced. Instead, UKHSA's work has focussed on assuring surge capacity, by:

a. Developing a commercial 'red button' plan consistent with the 100-day mission (dealt with further below), which identifies methods to maintain commercial mechanisms, bring in surge staff teams, and to detail the governance structure to approve contracts quickly without compromising quality assurance or value for money in future pandemics.¹⁸ The latter will require cross-government coordination and agreement, including with UKHSA's formal sponsoring department, DHSC, the Cabinet Office and the Treasury.

i. Designing flexible, scalable, and responsive commercial agreements to meet health threats whatever pace and scale may be needed.

- NHSTT's work on the LFD dynamic purchasing system drove value for money and illustrates the benefits of proactively designing such systems. The Procurement Act 2023 offers greater flexibility to add new suppliers to framework agreements, which could not be done under regulation 72(1) Public Contracts Regulations 2015. The latter restricts the modifications of framework agreements to (i) the replacement of contractors in specific circumstances and (ii) value by precluding modifications that exceed more than 50% of contract value. During the COVID-19 pandemic, limited modifications would not have assisted in the procurement of testing products due to (i) new suppliers and (ii) the large value of the contracts to procure sufficient tests for the speed and scale required.
- UKHSA is developing a framework for strategic partnerships with industry partners and supports a cross-government partnership strategy for the life sciences sector. This includes:

(a) Pilots with organisations;

¹⁸ Exhibit SC/112, "UKHSA's Commercial Strategy 2024-2029" (INQ000421934) at page 21.

- (b) The establishment of a market scanning team to provide insights into market development and emerging innovation;
 - (c) Targeting market engagement to develop potential suppliers (that can meet gaps in capability, provide better value services and make supply chains more resilient to disruption through mutual assurance and existing relationships); and
 - (d) Embedding shared values and priorities in its strategic commercial partnerships.¹⁹
- Partnerships, developed collaboratively with shared and explicit responsibilities, ensure that key partners, including those from the private sector, understand the likely requirements and roles they may play in any future pandemic and allow them to prepare, alongside UKHSA. Aligning values, policies, and innovation fosters transparency with suppliers and the public, prepares supply chains for greater resilience, and front-loads the time expended on development and quality.²⁰

PARTNERSHIPS

20. It is clear that the collaboration between Government departments, with the private sector and with academia, was critical to the development and procurement of COVID-19 PCR and LFD tests. Innovative science required collaboration with industry and significant public and private sector funding. Accordingly, UKHSA's commercial strategy highlights, as the first priority, establishing a range of partnerships with industry to benefit from different kinds of collaboration.
21. UKHSA's commercial strategy commits the Agency to streamline its processes and systems to make it easier for businesses of all sizes and sectors to access opportunities to work with UKHSA, whether established international companies or innovative startups.

¹⁹ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.18.

²⁰ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶8.19.

22. The ambition to ensure rapid availability of diagnostic tools and clinical countermeasures in a new pandemic is supported by publication of, and work undertaken pursuant to, UKHSA's pathogen genomic strategy, as well as working with other bodies including the NHS, relevant government departments, academia, and relevant international organisations, such as the World Health Organisation.²¹
23. As part of the UK's participation in the 100-day mission, a global initiative to better prepare the world for the next pandemic by driving the development of diagnostics, therapeutics, and vaccines, UKHSA plays a leading role in co-ordinating industry, academia, and the public sector in ongoing UK work to develop vaccines, diagnostics and therapeutics and itself contributes directly in some significant areas.
24. For example, one such contribution is the new UKHSA Diagnostics Accelerator, a specialist team charged with the task of boosting the country's technical ability to diagnose and test for new and emerging infectious disease threats. Proactively investing resources and expertise in researching and developing diagnostic tests reduces the time taken to accelerate a specific diagnostic test in future and allows UKHSA to contribute to the foundational quality of such diagnostic tests, in the event of a future pandemic.

TRANSPARENCY

25. UKHSA prioritises transparency in decision making, as well as integrity in commercial practice, and quality in products and services procured. Ongoing partnerships with industry and academia enhance industry confidence in UKHSA, and pre-existing relationships create opportunities for rapid securing of vaccines, diagnostics and/or therapeutics, such as vaccines for Mpox in summer 2022.²²
26. UKHSA has introduced an internal centralised organisational platform (the Approvals App)²³ to submit, view and make decisions on business cases to make routine spend approvals more efficient, and a source-to-pay system with embedded catalogues, as a means for better audit and due diligence, in turn aiming to provide greater transparency. UKHSA continues to work with its technology experts to explore the opportunities for technology and artificial intelligence to automate routine tasks and support staff with more complex transparency requirements.

²¹ Exhibit SC/114, "UKHSA's Science Strategy 2023 to 2033" (INQ000235220).

²² Exhibit SC/112, "UKHSA's Commercial Strategy 2024-2029" (INQ000421934) at page 18.

²³ UKHSA Corporate Witness Statement on Commercial Matters (INQ000521972) at ¶18.28.

27. The Procurement Act 2023 introduces new transparency requirements, the benefits of which will be seen once the Act comes into force and contracts are awarded under the new provisions.

CONCLUSION

28. The improvements made by the Procurement Act 2023 remain anticipated. UKHSA has a vital role in future pandemic prevention and response preparedness, including in realising benefits intended by the Procurement Act 2023. Elected decision makers have allocated UKHSA a budget equating to that allocated to a moderate sized district hospital for all of its activities and services,²⁴ and it remains for elected decision makers to decide the funding priorities. Within the parameters set for it, UKHSA has published its commercial strategy and is developing its commercial systems to scale in the event of a further pandemic.

UKHSA

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²⁴ Amounting to 3% of its original pandemic budget, and similar to the budget allocated to Public Health England immediately prior to the COVID-19 pandemic (see Statement of Duncan Selbie (INQ000536423) at ¶10).