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UK COVID-19 INQUIRY MODULE 5

**WITNESS STATEMENT OF PETER MUNRO, ON BEHALF OF THE UK ANTI-CORRUPTION
COALITION**

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I, Peter Munro, will say as follows: -

Executive Summary

1. The Covid-19 pandemic placed unprecedented pressure on governments worldwide to procure vast quantities of essential goods, such as personal protective equipment (PPE), ventilators, and testing kits, in an urgent timeframe. The UK Government's response through emergency procurement mechanisms has been scrutinised for its lack of transparency, ineffective management of conflicts of interest, and potential misconduct. Our statement explores the key issues surrounding the procurement process during the pandemic, focusing on the gaps in transparency, corruption risks, fraud, and recommendations for reforming the system.
2. Our analysis considers key principles, legislation, and protocols aimed at preventing fraud, bribery, corruption, and misconduct in public office, and the importance of transparency for avoiding conflicts of interest in procurement processes. Additionally, we explore the framework for debarment and exclusion and focus on conflicts of interest and potential areas of criminal and civil misconduct. We also outline the role of principal oversight institutions tasked with ensuring anti-corruption measures in public procurement, providing an overview of the institutions for ensuring regulatory compliance and proper mitigation against misconduct.
3. An analysis of pandemic-related contracts for healthcare supplies and equipment is presented, detailing the volume and value of these contracts, as well as the types of contract awards made. We examine public access to government procurement data, highlighting transparency issues. We outline various Freedom of Information (FOI) requests made by our working group members, with a particular focus on our requests for procurement data, the government's refusal to release key information, and the frequent use of exemptions such as commercial sensitivity to block public scrutiny.
4. Our statement underscores the UK Government's failure to publish many key procurement documents within the legally required timeframes, resulting in significant transparency

concerns. Numerous case studies demonstrate these failures, including withheld or incomplete disclosures related to PPE procurement, meetings, and internal communications. These lapses in transparency led to concerns over wasted public funds, with unused and destroyed PPE becoming a major issue, alongside other equipment procurements that resulted in financial loss.

5. We further investigate the operation of the High Priority Lane (HPL), which funnelled key contracts for PPE and NHS Test and Trace to politically connected individuals without public oversight. Our analysis reveals significant misspending and a lack of accountability in awarding contracts through the HPL, often to companies lacking a track record of legitimate, relevant services. The existence of the HPL system was initially denied by the Department of Health and Social Care (DHSC), and its exposure came through investigative journalism and the National Audit Office (NAO), raising critical concerns about the procurement process during the pandemic.
6. The UK Government's procurement response to the Covid-19 pandemic brought to light critical shortcomings in the transparency, governance, and accountability of public contracting. While the need for speed was undeniable, given the global health crisis, the government's reliance on emergency procurement measures often bypassed essential safeguards to ensure value for money, fairness, and integrity. The findings of this report reveal that key failures in transparency, conflict-of-interest management, and fraud prevention were systemic, not just the result of pandemic-induced chaos.
7. The excessive delays in publishing contract award notices, particularly for PPE and other critical supplies, undermined public trust and accountability. Public scrutiny is essential, especially in emergencies, when normal checks and balances are relaxed. The failure to publish thousands of contracts promptly created a situation where the government's decisions and actions were shielded from proper oversight. This lack of transparency, coupled with using mechanisms like the HPL, led to legitimate concerns over potential corruption, favouritism, and the inappropriate allocation of public resources.
8. Looking ahead, the UK must learn from the shortcomings of its pandemic response. We put forward several recommendations so that the government can rebuild public

confidence in its ability to responsibly manage public funds, even in the most challenging circumstances. A more transparent, accountable, and resilient procurement framework will not only help protect taxpayer money but also ensure that critical resources are directed to where they are most needed in future crises. The lessons learned from Covid-19 should serve as a blueprint for future emergency procurement, balancing the need for rapid action with the principles of fairness, integrity, and transparency.

Professional background and expertise

9. The UK Anti-Corruption Coalition (UKACC) brings together the UK's leading anti-corruption civil society organisations working to reduce corruption in the UK and its role in facilitating corruption abroad. UKACC policy priorities include - but are not limited to - corruption issues surrounding economic crimes and illicit finance, tax avoidance and financial secrecy, human rights and anti-corruption sanctions, standards in public life and political integrity, climate and the energy transition, and public procurement.¹ As a civil society coalition, our organisational breadth means that we work collectively across the policy space. This includes academic research, long-form investigations, parliamentary and governmental advocacy, and media engagement. We routinely collaborate with parliamentarians, civil servants, the private sector, enforcement agencies, and international bodies. We regularly input to policy processes through letters, briefings, joint statements, and submissions to inquiries and consultations.

10. UKACC is not a legal entity but a long-standing established coalition between 18 member organisations and other affiliations. These members include:

- Article-19
- Campaign for Freedom of Information (CFOI)
- Corner House
- Global Witness
- International Lawyers Project (ILP)

¹ <https://www.ukanticorruptioncoalition.org/>

- International State Crime Initiative
- Natural Resource Governance Institute (NRGI)
- ONE
- Open Contracting Partnership (OCP)
- Open Ownership (OO)
- Oxfam
- Protect
- Publish What You Pay (PWYP)
- RAID
- Spotlight on Corruption (SpoC)
- University of Sussex, Centre for Study of Corruption (UoS)
- The Sentry
- Transparency International UK (TI-UK)

11. The Coalition has existed as the Bond (British Overseas NGOs for Development) Anti-Corruption Group since 2008 but has formed a separate group as of 2019. Members do not pay 'dues,' and new member applications are subject to the approval of existing members. The minimum criteria for new membership are listed in the terms of reference agreed to by the group. The Coalition regularly invites external organisations to participate in its various working groups.

12. The current UKACC secretariat staff includes two positions: a Senior Coalition Coordinator (Peter Munro) and a Coalition Communications Manager (Stevie Wolfe). These two positions are hosted within Transparency International UK. The UKACC secretariat staff report to two Co-Chairs, the positions of which are elected by the coalition membership every year. Current Co-Chairs are Gavin Hayman (Executive Director, Open Contracting Partnership) and Thom Townsend (Executive Director, Open Ownership).

13. UKACC secretariat staff and joint activities are currently funded by The Joffe Trust and Open Society Foundations. The secretariat has no financial relationships with its members (besides its host organisation, Transparency International UK) or the UK Government. Whilst it works collaboratively with the UK Government and parliamentarians, UKACC

operates independently and has no political affiliations. Transparency International UK operates as a registered not-for-profit charity.

14. In Spring 2020, the Coalition created a Procurement Working Group (PWG) consisting of several expert organisations with detailed national and international expertise to contribute their advice and expertise on UK procurement reforms (and insights concerning pandemic procurement in the UK). In Autumn 2023, a subgroup of the PWG came together to form the Core Participant (CP) group for this inquiry. These organisations and individuals include:

- UKACC - Peter Munro
- Open Contracting Partnership - Gavin Hayman
- Spotlight on Corruption - George Havenhand
- Transparency International UK - Steve Goodrich
- Centre for Health and the Public Interest - David Rowland
- Independent procurement expert - Chris Smith
- Independent procurement expert - Russell Scott

15. As the Inquiry process has developed, more individuals and experts within these core organisations have signed formal undertakings and assisted with the progress of this evidence and other matters. Our PWG has provided detailed analysis, policy and data expertise to inform the Procurement Act 2023. We have also inputted into the procurement reform and open contracting commitments in the UK National Open Government Action Plan and engaged extensively in other procurement research and advocacy.

16. Regarding our involvement in this inquiry, as individual members and collectively, we have also analysed, critiqued, and informed the UK's pandemic procurement response. Our work has focused on securing stronger safeguards against corruption in procurement, reforms to improve public trust in government spending, and securing positive social outcomes. This includes pushing clear transparency principles for the UK's new procurement regime, checks on the use of emergency procurement powers, tighter debarment and exclusion provisions to ensure the Government does not contract with companies subject to criminal charges, encouraging better corporate conduct, and

strengthening conflict-of-interest mitigation protocols within government departments. Further, we have advocated for improved end-to-end transparency and data for procurement decisions across the whole commercial cycle of procurement planning, tendering, awarding, and delivery of public contracts.

Professional background and expertise of Core Participants

17. Open Contracting Partnership is the only global non-profit organisation working globally (with programs in over 30 countries) to open up and transform public procurement.² OCP has specific expertise in data and digital transformation in public procurement and manages a global best practice open data standard for sharing and analysing the whole cycle of public procurement information called the Open Contracting Data Standard (OCDS). OCDS has been endorsed by the G7, the G20, the World Bank and others and has over 50 governments, cities, and regions using the standard to publish accessible information.³ Given the huge marketplace disruptions during the pandemic, OCP was a core organisation sharing best practices in emergency procurement globally, contributing to numerous publications and analyses of what was helping the crisis response and what was problematic, convening over 100 frontline procurement practitioners and experts to define key best practices for emergency procurement and providing numerous country case studies of best practices. As well as advising governments, OCP supported journalists and civil society in monitoring emergency procurement, including supporting TI-UK's 2021 Track and Trace report. OCP contributed to an expert opinion piece on challenges and lessons learned around the UK's emergency procurement for the University of Sussex's Centre for the Study of Corruption. OCP provided detailed support on the pandemic response in several countries and distilled best practices in pandemic procurement for the OECD, UN Office of Drugs and Crime's Rapid Reference Guide on Expedited Procurement and expert organisations that could play a critical role in promulgating best practices such as the Association of Chartered Certified Accountants.

² <http://www.open-contracting.org/>

³ <https://standard.open-contracting.org/latest/en/>

OCP also authored a best practice guide for collecting and analysing emergency procurement information and how to spot red flags to investigate questionable awards.

18. Spotlight on Corruption shines a light on the UK's role in corruption at home and abroad.⁴ They undertake detailed, evidence-based, and impactful research on how the UK implements its anti-corruption laws and international commitments. Through a unique court monitoring programme, they also monitor, analyse, and share information about how the UK courts deal with corruption cases. Spotlight's work on procurement has focused on mitigating conflicts of interest and robustly implementing the UK's debarment and exclusion regime to help deter corruption in the UK and abroad and encourage robust corporate compliance systems. Spotlight worked closely with academics and experts to push for a debarment regime to be implemented in the UK's post-Brexit procurement regime, engaging closely with the government consultation and helping secure the new debarment register in the Procurement Act. They have also produced reports and briefings focusing on the handling of conflicts of interest issues in procurement after concerns were raised - including in independent expert reports - on this issue during the Covid-19 emergency procurement phase. Through Freedom of Information requests, Spotlight established that half of the High Priority Lane companies supplied PPE worth £1 billion that was not fit for purpose, raising further concerns about the government's handling of Covid-19 procurement. They also maintained a public media database of alleged corruption relating to Covid-19 throughout 2020 and 2021 and submitted evidence for the Procurement Bill with recommendations for improving the debarment and exclusion regime and tightening conflict of interest controls in light of failings during the pandemic. Most of these recommendations - many of which were drawn directly from the independent Boardman review commissioned by the government into pandemic procurement - were not accepted, leaving the UK more exposed to conflict-of-interest risks and ignoring lessons from the pandemic. Additionally, Spotlight took a case to the First-Tier Tribunal, calling for the publication of the names of companies that received Covid-19 loans and published reasons for bringing the case and analysis of the outcome.

⁴ <https://www.spotlightcorruption.org/>

19. For more than 25 years, Transparency International UK has worked to expose and prevent corruption.⁵ Their research and work with governments, businesses, and civil society has exposed serious governance issues in the UK and where the UK has contributed to corruption abroad. TI's flagship research product, the Corruption Perceptions Index, is used across the world by businesses, governments and NGOs to understand country-level corruption risk. Regarding public health and the pandemic, Transparency International UK has published several research reports, including *For Whose Benefit: Transparency in the Development and Procurement of Covid-19 Vaccines, Track and Trace*, which identifies key issues within the UK's procurement practices, and *Declare Interests, Manage Conflicts, Protect the NHS*, a report concerning clear governance arrangements and protective measures to ensure that decisions about healthcare services are taken in the best interests of patients and taxpayers. Their latest report, *Behind the Masks* published in September 2024, provides the most comprehensive analysis to date of UK Covid-19 procurement to date and associated corruption risks. We note its key findings throughout this statement.

20. The Centre for Health and the Public Interest (CHPI) – an independent research think-tank - have been funded by the Joseph Rowntree Charitable Trust Power and Accountability programme to analyse the procurement of healthcare services and facilities from private companies during Covid-19.⁶ It has secured the disclosure of £2bn of these contracts and key data about their performance using the Freedom of Information Act. CHPI is currently seeking further information regarding the decisions to strike such agreements. The Centre has also published two major studies into this procurement initiative in September 2021 and March 2023, which have been covered by the Guardian and the British Medical Journal.

21. Chris Smith is an independent procurement expert who has worked as a consultant for the OCP, the European Bank for Reconstruction and Development, and the Asian Development Bank. He was a member of the team that undertook emergency procurement of PPE and other urgently required items for the UK's response to the Ebola

⁵ <https://www.transparency.org.uk/>

⁶ <https://chpi.org.uk/>

pandemic in Sierra Leone in 2014. In the last year, he has been investigating the lack of transparency of Covid-19 contracts placed by, among others, Supply Chain Co-ordination Ltd, DHSC, NHS England, and the Cabinet Office, and identified £8bn of missing Covid-19 contracts, which were reported by the Byline Times and Financial Times. Earlier this year, he submitted evidence about unpublished Covid-19 contracts to reviews of DHSC accounts.

22. Russell Scott is a Yorkshire-based writer, journalist and former investigator at the Good Law Project. He led their investigative work during the pandemic into corruption, unlocking democracy, and environmental issues. His journalism has appeared in The Guardian, The BBC, The Sunday Times, The Mirror, Open Democracy and many other publications. His investigative work was nominated for a British Journalism award, and he was responsible for uncovering crucial details about the government's contracts for PPE, Covid-19 testing equipment, and ventilators during the pandemic. He was responsible for successfully challenging the UK government to provide the names of the companies that benefited from the two controversial high-priority lanes. He is currently writing a book to be published later this year by Bloomsbury detailing the government procurement record during the pandemic.

UKACC Analysis of suspected criminal and civil misconduct

23. **Section Summary:** Regarding public procurement during the pandemic, the Inquiry asked us to consider the most important principles, legislation, guidance, and protocols whose aim was the prevention or mitigation of fraud, bribery, corruption, misconduct in public office, and any other wrongdoing. Further, we were asked to set out similar principles as they relate to providing value for money, ensuring transparency, openness and accountability; avoiding and/or recording actual or potential conflicts of interest, and ensuring that contracts were awarded fairly. Our analysis sets out these various principles with a particular focus on conflicts of interest and debarments and exclusions. This section then covers potential areas of criminal and civil misconduct, notwithstanding that this is covered in other sections of our statement.

Regulatory Framework

24. The relevant legislative framework for public sector procurement from January 2020 to June 2022 was under Public Sector: Directive 2014/24/EU of the European Parliament⁷ and the consequent UK Public Contracts Regulation 2015 (PCRs)⁸ and the Public Contracts (Scotland) Regulations 2015.⁹ The purpose of the PCRs was to ensure that all public procurement was based on value for money, defined as *“the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought”*. Government guidance specified that this would be best achieved through competition unless there were compelling reasons not to do so.¹⁰
25. Civil servants operating the Covid-19 procurement exercise were required to comply with the standards in the Civil Service Code (updated in March 2015).¹¹ The standard of integrity requires civil servants to fulfil their duties and obligations responsibly, to act in a way that is professional, to make sure public money and other resources are used properly and efficiently, and not to misuse their official position, which may include using information acquired in the course of official duties to further their private interests or the interests of others. Civil servants were also required to comply with the Civil Service Management Code (updated in November 2016), which sets out the terms and conditions of employment. The Management Code states, *“Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed.”* Special advisers were bound by the requirements of integrity and honesty in the Civil Service Code and by the Code of Conduct for Special Advisers.¹²

⁷ European Parliament (26 February 2014) Directive - 2014/24 - EN - EUR-Lex

⁸ The Public Contracts Regulations 2015

⁹ The Public Contracts (Scotland) Regulations 2015

¹⁰ Crown Commercial Service (1 October 2014) Guidance: public procurement policy

¹¹ (16 March 2015) *Civil Service Code*

¹² Cabinet Office (December 2016) *Code of Conduct for Special Advisers*

26. Ministers were required to comply with the principles underpinning the Ministerial Code (updated in August 2019).¹³ The Ministerial Code contained the general principle that “*Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise.*” The Code also required ministers to “*maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety*”, and “*be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest.*” The foreword to the August 2019 version of the Code, written by Boris Johnson MP, added that “*There must be ... No misuse of taxpayer money and no actual or perceived conflicts of interest.*”¹⁴ The arrangements in government for managing ministers’ potential conflicts of interest during the relevant period are considered further below.

27. The UK also had treaty obligations as a signatory to the World Trade Organisation (WTO) Agreement on Government Procurement (GPA) 2012, a plurilateral agreement within the WTO which aims to open government procurement markets among its parties. Article IV(4)(b) and (c) of the GPA require procuring entities to conduct covered procurement in a transparent and impartial manner that “avoids conflicts of interest” and “prevents corrupt practices”.¹⁵

Mitigations: Conflicts of Interest

28. This part of the Rule 9 response focuses on the most important legislation, guidance, and protocols in the relevant period, which aimed to avoid and record actual or potential conflicts of interest, and on a series of reviews that highlighted shortcomings in the way ministers, departments, and civil servants identified, managed, and recorded conflicts of interest. The following section will look at the role of debarment and exclusion principles.

¹³ House of Lords Library *Ministerial Code QSD on 12 March 2020*

¹⁴ Cabinet Office (August 2019) *Ministerial Code*

¹⁵ Agreement on Government Procurement 2012 and related WTO texts

29. As the government identified in guidance on new conflict of interest rules in the Procurement Act - published on 19 July 2024, after the relevant period: conflicts need to be managed effectively to ensure the public can trust authorities to carry out procurement responsibly and impartially; and this encourages suppliers to participate in procurement, with the confidence that they will be treated fairly.¹⁶ Failing to identify and mitigate conflicts of interest has serious consequences, including undermining confidence in the integrity of government, eroding trust between suppliers and purchasers, reducing the quality of public goods and services with contracts awarded based on an unfair advantage rather than merit, and eroding the level playing field for business.
30. The PCRs were supplemented by PPN (Procurement Policy Note) 01/19, *'Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing'* and its accompanying guidance.¹⁷ Regulation 24 of the PCRs required contracting authorities during the relevant period to take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators. Regulation 84 of the PCRs also required contracting authorities to document all stages of the procurement process, including whether steps have been taken to identify and manage any potential conflicts of interest (Regulation 84(i)).
31. On 9 September 2016, the Cabinet Office issued PPN 08/16, 'Standard Selection Questionnaire (SQ)'. This was in effect during the pandemic and replaced by PPN 03/23 in March 2023, after the relevant period.¹⁸ The 2016 PPN set out the revised standard Selection Questionnaire, which required potential suppliers to declare whether they were aware of any potential conflicts of interest (and, if so, to provide details) of any potential conflicts as defined in Regulation 24 of the PCRs.

¹⁶ Cabinet Office (19 July 2024) Guidance: Conflicts of Interest

¹⁷ Cabinet Office (22 February 2019) Procurement Policy Note – Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing Information Note PPN 01/19
Government Commercial Function Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing A Guide for Commercial and Procurement Professionals

¹⁸ Cabinet Office (9 March 2023) PPN 03/23: Standard Selection Questionnaire (SQ)

32. In addition to the PCRs, the UK had in place a Supplier Code of Conduct.¹⁹ Version 2 was issued by the Government Commercial Function in February 2019 and was in effect until June 2023. Version 2 stated that suppliers were expected “to mitigate appropriately against any real or perceived conflict of interest through their work with government.” Some government departments, including DHSC, published their own supplier codes of conduct, which contained additional guidance on how to manage conflicts of interest during engagement with the department.²⁰ Further requirements for managing conflicts of interest were contained in the terms and conditions of specific government contracts, framework agreements and dynamic purchasing systems.

33. PPN 01/19 and its accompanying guidance were issued by the Cabinet Office on 22 February 2019. The guidance highlighted that:

- a. Regulation 24 of the PCRs required contacting authorities to take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in procurement procedures and any distortion of competition and to ensure equal treatment.
- b. The identification of conflicts of interest and subsequent measures taken should be documented in a procurement report, as required by regulation 84(1)(i).
- c. A bidder could be excluded under regulation 57(8)(e) of the PCRs where other means could not effectively remedy a conflict of interest.

34. 18 March 2020, the Cabinet Office issued PPN 01/20, ‘Responding to Covid 19’. PPN 01/20 recognised that the Covid-19 outbreak was exceptional and that public authorities could rely on regulation 32(2)(c) of the PCRs.²¹ These emergency procedures meant departments could award contracts directly without a tender. Importantly, whilst the rules on procurement processes were relaxed, the rules in the PCRs on handling conflicts of interest and recording decisions were not; key safeguards and requirements that were not always complied with in the relevant period.

¹⁹ Government Commercial Function (February 2019) Supplier Code of Conduct v2

²⁰ DHSC (25 October 2023) DHSC supplier code of conduct

²¹ Cabinet Office (March 2020) Procurement Policy Note - Responding to COVID-19 Information Note PPN 01/20

Conflicts of Interest: Ministers

35. Conflicts of interest between ministers' roles in Government and their private interests can arise when ministers give preferential treatment to suppliers bidding on public contracts, when they fail to properly declare meetings with third parties, or, more generally, when their personal financial interests pose a conflict, or the perception of one, with their duties in government. The Ministerial Code required ministers in the relevant period to *"scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests."* Ministers were guided by the general principle in the Ministerial Code that they should dispose of the interest giving rise to the conflict or take alternative steps to prevent it.
36. Under the Ministerial Code, newly appointed ministers were required to provide their Permanent Secretary with a written list of relevant interests which might be thought to give rise to a conflict. Where appropriate, the Minister meets their Permanent Secretary and the Independent Adviser on Ministers' interests to agree on how to handle interests. Ministers must record in writing what action has been taken and provide the Permanent Secretary and the Independent Adviser with a copy of that record. As set out in their terms of reference, the Independent Adviser has a role in advising the prime minister and other ministers about adhering to the provisions of the Ministerial Code.
37. After taking advice, ministers are ultimately responsible for deciding what action is required to mitigate any risks, which could include recusal from certain situations or divesting from interests altogether. Guidance published on 27 July 2022, 'Principles for Ministerial involvement in commercial activity and the contracting process', clarified that ministers must declare any potential conflicts of interest with tenderers during departmental procurement exercises.²²

²² Cabinet Office (27 July 2022) *Principles for Ministerial involvement in commercial activity and the contracting process*

38. Unlike MPs, who are required to register any change to their private interests within 28 days, ministers declare their interests on a largely ad hoc basis, where there has been a substantial change in their portfolio or in their circumstances. Despite the updated 2022 terms of reference for the Independent Adviser establishing that a statement of ministerial interests would be published “at least twice year,” between May 2022 and April 2023, the list was not updated, while during this time, the MPs register was updated 20 times.

Conflicts of Interest: Civil Servants

39. Civil servants may have access to sensitive information that forms the basis for government policy and decision-making, and there are conflict of interest risks if civil servants seek to leverage this access for their own personal gain, either when in government or after entering the private sector. Civil servants are required to comply with the values in the Civil Service Code.²³ As noted above, the Civil Service Management Code states that where a conflict of interest arises, civil servants must declare their interest to senior management so they can determine how best to proceed.²⁴

40. Following concerns about civil servants’ outside interests that had come to light as a result of the collapse of Greensill Capital, the Cabinet Secretary, Simon Case, identified the Cabinet Office’s planned reforms to the management of civil servants’ interests, including that:

- a. all senior civil servants would be required to declare any relevant interests to their permanent secretary on at least an annual basis;
- b. these returns would be scrutinised by the departments’ Audit and Risk Committees;
- c. departments should publish a register of relevant interests for all members of departmental boards; and

²³ (16 March 2015) *Civil Service Code*

²⁴ (9 November 2016) *Civil Service Management Code*

d. consideration was underway as to whether new structures needed to be established to monitor the overall position, to consider whether the right framework is in place and to advise on finely balanced cases.²⁵

41. Following the Greensill Capital scandal, Nigel Boardman recommended, in a report dated 5 August 2021²⁶, that departments adopt a tougher approach to registering the financial interests of civil servants to avoid conflicts of interest. Describing the rules as “*especially weak*,” Boardman recommended a significant overhaul which would require civil servants with access to unpublished price-sensitive information to seek approval from departmental compliance teams prior to dealing in securities, and to submit an annual disclosure to their departments.

42. New guidance published by the government in June 2022 clarified the responsibilities of civil servants to declare outside interests and set out ways in which conflicts of interest can be mitigated and eventually resolved.²⁷ The guidance, however, was aimed at senior civil servants and therefore failed to capture the potential for conflict of interest affecting lower-grade civil servants who may nevertheless have access to policymaking discussions and to procurement decisions – distinguished as ‘relevant civil servants’ in Boardman’s report.

Conflicts of Interest: Departmental Rules

43. In July 2021 – the government’s target date for implementing the 28 recommendations from Boardman’s December 2020 report – Spotlight on Corruption sent Freedom of Information (FOI) requests to 17 government departments for their conflict of interest policies and related guidance and for information on the number of conflict of interest declarations submitted by their staff and contractors.

²⁵ Simon Case (23 April 2021) *Letter to William Wragg MP*

²⁶ Nigel Boardman (5 August 2021) *Review into the Development and use of Supply Chain Finance (and Associated Schemes) in Government*

²⁷ Cabinet Office (25 April 2023) *Declaration and management of outside interests in the Civil Service*

PM/01a [INQ000507641]
PM/01b [INQ000507640]
PM/01c [INQ000507645]
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PM/01j [INQ000507642]
PM/01k [INQ000507568]
PM/01l [INQ000400176]
PM/01m [INQ000507566]
PM/01n [INQ000507565]
PM/01o [INQ000507637]
PM/01p [INQ000507636]
PM/01q [INQ000507639]
PM/01r [INQ000507638]
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PM/01t [INQ000507562]
PM/01u [INQ000507554]
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Spotlight found that only two departments had made updates or revisions to their conflict of interest policies as recommended by Boardman.

44. Thirteen departments supplied a stand-alone department conflicts of interest policy, while some departments did not have a policy (Department for International Trade), relied on provisions in the Civil Service Code and Diplomatic Service Code (Foreign, Commonwealth & Development Office), or based their approach on provisions in the PPNs (Department for Work and Pensions). The Cabinet Office's two-page policy, updated in May 2021, failed to reflect many of Boardman's recommendations, despite the government's commitment to implement them by July 2021 and the Cabinet Office's oversight role in that process. Specifically, the policy did not cover Boardman's recommendations on broadening the scope of declarants to include contractors, consultants, special advisers, and other political appointees; the need for conflict of interest declarations to be made both on a regular basis and in relation to specific procurement processes; or the consideration of additional measures for specialised sectors in which there is a greater risk.
45. All but one department refused to disclose information on the number of conflicts of interest declarations received, stating that it would take them too long to gather the information for the purposes of the FOI Act. The Department for Environment, Food & Rural Affairs disclosed that it had received 115 declarations from staff between September 2021 and October 2022 and none from suppliers. The Cabinet Office stated that it did not hold conflict of interest declarations centrally as a result of the way this information was collected and stored by Heads of Management Units.²⁸ This decentralised system for conflict of interest declarations raises questions about the extent to which the Cabinet Office (and other departments) had oversight of conflicts at a departmental level.

Conflicts of Interest: Suppliers

46. Under the PCRs, contracting authorities are required to take measures to identify and manage any potential conflicts of interest, while suppliers are obliged by specific terms and conditions of government contracts to take measures to mitigate against any conflicts of interest. In addition to these obligations, the Supplier Code of Conduct referred to above
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was designed to foster a “*bond of trust between government, suppliers and the public.*”²⁹ Compliance with the Code, however, was voluntary and it is not clear if its requirements were monitored or enforced.

47. In his December 2020 review, Boardman recognised the supply-side risks of conflicts of interest and recommended tightening the rules on supplier declarations to require disclosures at the outset of any procurement activity, as well as during the lifetime of the engagement, with a failure to do so resulting in appropriate sanctions. Following these recommendations, the government introduced new conflict of interest clauses to its Model Services Contract – a template contract used for “*high value, complex services*” with a total contract value of over £20 million. The new template, however, did not match Boardman’s ambition that suppliers’ relationships with ministers and with civil servants should be declared automatically at the outset of a procurement process – and by virtue of only applying to contracts over £20 million, would not have captured some of the contracts investigated by other investigations into government procurement during the pandemic.

Conflicts of Interests: Reports and Responses

48. UKACC would like to highlight that due to parliamentary privilege, there are a number of key reports that illustrate the UK’s emergency procurement response during the pandemic that were omitted from this section.

Nigel Boardman Reports

49. In response to concerns over how the Cabinet Office was handling conflicts of interest during the Covid-19 emergency procurement phase, in September 2020, the government commissioned Nigel Boardman to assess how contract awards for communications services were made by the Cabinet Office in March 2020.³⁰ Boardman was asked to consider the results of a fact-finding exercise carried out by the Cabinet Office as part of

²⁹ Supplier Code of Conduct v3

³⁰ Nigel Boardman (8 December 2020) Findings of the Boardman review into pandemic procurement

its defence to a claim for judicial review. That legal challenge focused on the government’s procurement of services from Public First – a company linked to Michael Gove and Dominic Cummings; one of the grounds was that the decision to award the contract gave rise to apparent bias.³¹ Boardman’s review was published in December 2020, a month after an NAO report.

50. The review identified, as one of its three key findings, that the management of actual or perceived conflicts of interest in procurement could be improved, and made 28 recommendations, including:
- a. *“Cabinet Office should strengthen its model for the management of actual and perceived conflicts of interest in procurements, following the “identify, prevent, rectify” sequence”*
 - b. *“Additional guidance for all Government Departments on conflicts of interest in procurements should be produced and issued, and training offered.”*
 - c. *“Cabinet Office should reinforce the existing requirement that for all procurements, separate records should be kept of any actual or perceived conflicts of interest identified and of steps taken to manage any conflicts of interest related to that contract.”*
 - d. *“All guidance should make it clear that the requirement to declare and record actual or perceived conflicts of interest applies to all officials or those working on behalf of Cabinet Office equally, including civil servants, contractors, consultants, special advisers, and other political appointees.”*
 - e. *“There should be a clear process for managing risk regarding conflicts of interest.”*

51. In response to Boardman’s report, the Cabinet Office said it was committed to learning lessons and that it would accept and implement all 28 recommendations in full.

52. On 7 May 2021, the Cabinet Office published a second report by Boardman into Covid-19 procurement.³² This wider review explored similar themes to the first but expanded to cover areas of the government’s response to the pandemic: PPE, ventilators, vaccines,

³¹ Good Law Project v Minister for the Cabinet Office CO/2437/2020

³² Nigel Boardman (7 May 2021) *Boardman Review of Government COVID-19 Procurement final report*

test and trace and food parcels for the extremely vulnerable. The report did not find evidence that contracts within the scope of the review were awarded on grounds of favouritism but noted factors which may have led to suspicion, such as incomplete recordkeeping, including in relation to conflicts of interest. On the same day, the government accepted all 28 recommendations from Boardman's second report.³³

Mitigations: Debarment and Exclusion

53. Debarment from public contracts is recognised in several international instruments as an important and effective sanction and deterrent for corporate wrongdoing and clear protection for public procurement from fraudulent activity and general misconduct. This includes the OECD Convention on Combatting Bribery of Foreign Public Officials and the UNODC legislative guide to the implementation of the UN Convention Against Corruption.³⁴

54. A well-implemented debarment or exclusion regime – where suppliers who commit corruption, fraud, money laundering or other serious wrongdoing are precluded from bidding on or benefitting from some or all public contracts for a set period of time – can be an effective tool for ensuring the reliability and trustworthiness of government contractors. An effectively implemented regime will create wider social and economic benefits, the most important of which are:

- a. greater public trust in government by mitigating reputational risks and protecting the government from association with unlawful behaviour;³⁵

³³ Cabinet Office (7 May 2021) Government statement regarding the Boardman review of COVID-19 Procurement

³⁴ UNODC (2012) Legislative guide for the implementation of the United Nations Convention against Corruption

³⁵ Sue Arrowsmith (2009) *A taxonomy of horizontal policies in public procurement*, in S. Arrowsmith and P. Kunzlik (Eds.) *Social and Environmental Policies in EC Procurement Law: New Directives and New Directions*, Cambridge University Press; Robert Anderson, Alison Jones and William E. Kovacic, *Preventing Corruption, Supplier Collusion and the Corrosion of Civic Trust: a procompetitive program to improve the effectiveness and legitimacy of public procurement*

- b. incentivising companies to put in place good corporate compliance procedures to prevent and detect fraud, corruption and collusion and deterring such acts;
- c. creating greater value for money for citizens and government in public procurement;
- d. encouraging companies to self-report wrongdoing and cooperate with law enforcement authorities to avoid debarment, thus reducing the financial burden on the criminal justice system of lengthy investigations into corporate malpractice;
- e. creating a level playing field for companies that are abiding by the rules; and
- f. improving value for money for public procurement.

55. Under Article 57 of the EU Procurement Directives 2014, implemented through regulation 57 of the PCRs, UK contracting authorities were required in the relevant period to exclude bidders under certain circumstances, including on a mandatory basis (regulation 57(1)) where they have been convicted for fraud, bribery, money laundering, corruption, terrorism, breaches of tax obligations and other offences; and on a discretionary basis (regulation 57(8)) on various grounds, including where they engaged in '*grave professional misconduct*' or where a conflict of interest could not be effectively remedied by other, less intrusive means. Contracting authorities could make exceptions where contractors 'self-cleaned' – or took remedial measures following conviction.

56. The risk of corrupt bidders being excluded from public procurement in the UK operated as a theoretical, rather than a real, threat during the pandemic, as there has been very little use of exclusion in the UK. An exception is the debarment of Bain & Company in August 2022 for its involvement in wrongdoing in South Africa, later revised to just the company's South African subsidiary.³⁶ In our opinion, Regulation 57 was ineffective in the UK during the relevant period. Implementation was left to individual contracting authorities, who were often focused on awarding contracts as quickly and easily as possible while avoiding potential risks of litigation. There was limited central training or guidance to ensure consistency in application, and the whole process relied heavily on

³⁶ Cabinet Office (21 March 2023) Update on procurement exclusion

self-declarations by bidders with no central or comprehensive source for verifying these declarations.

57. Contracting authorities should have been able to exclude based on credible evidence of fraud or other wrongdoing rather than having to wait for a conviction to protect the integrity of public procurement. A 2020 UK Government review of fraud and corruption in local government procurement highlighted that the government should “*see if more could be done to allow procurers to exclude bidders from the process (with reasonable cause and without the requirement to disclose), for example when there are known concerns with law enforcement that have not yet resulted in a prosecution.*”³⁷ In the US federal procurement regime, debarment officials can act on evidence rather than waiting for a conviction. A supplier may be most at risk of being unreliable before rather than after a conviction, and investigations can take years to result in enforcement action.

58. Guidance issued by the Cabinet Office on 22 February 2019, PPN 01/19 on ‘Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing: A Guide for Commercial and Procurement Professionals’, gave examples to illustrate potential ‘grave professional misconduct’, including breach of ethical standards, or breach of contract which amounts to wrongful intent, gross negligence, anti-competitive behaviour or violations of social obligations.³⁸ However, exclusion for grave professional misconduct was not used effectively as a tool concerning profiteering and other wrongdoing in pandemic procurement. This may have stemmed partly from the lack of clarity about the precise definition and scope of the exclusion, with no relevant case law in the UK providing details for contracting authorities.

Law enforcement activity and potential areas of criminality

³⁷ Ministry of Housing, Communities and Local Government (June 2020) *Review into the risks of fraud and corruption in local government procurement*

³⁸ Cabinet Office (22 February 2019) *Procurement Policy Note 01/19: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing*

59. At the time of this Rule 9 response, the only reported criminal investigation into the supply of PPE and other pandemic-related healthcare products to the central government was concerning PPE Medpro. The NCA opened its live investigation into PPE Medpro in May 2021, arising from two contracts awarded to procure PPE, which has been widely reported.³⁹ Separately, on 8 February 2023, the NCA announced that it had arrested three people in connection with suspected international fraud during the pandemic, which was linked to the supply of PPE in the US and Germany.⁴⁰
60. On 28 July 2023, after the relevant period, two men were sentenced for fraudulently selling unauthorised Covid-19 test kits in 2020. One pleaded guilty to fraud contrary to the Fraud Act 2006, and the other to producing an unsafe product contrary to the General Product Safety Regulations 2005.⁴¹
61. By 1 February 2024, the SFO had brought no prosecutions for cases of fraud connected to Covid-19. The former Solicitor General said that, given that the SFO deals with the most complex and serious economic crime, most such cases would fall outside of its remit.
62. It is difficult to assess whether fraud might have occurred in the areas of procurement set out in this statement without any investigation and evidence to support that assessment. The enormous outlay of public money during the pandemic would inevitably attract opportunists motivated to profit legitimately and unlawfully from the crisis. DHSC had estimated that fraud and error would cost them between 0.5% and 5% of PPE expenditure. It is estimated that the checks the DHSC put in place prevented £139 million in fraud and recovered a further £18 million. It is not clear what measures, if any, were put in place to limit these forms of criminality during the pandemic. In any event, there does not appear to have been any coordinated strategy, or dedicated investigative and prosecutorial resource, directed to deal with it as it was uncovered.

³⁹ BBC News (12 June 2024) Man arrested in probe into Michelle Mone-linked PPE firm - BBC News

⁴⁰ NCA (8 February 2023) Three arrested in suspected PPE fraud worth millions

⁴¹ CPS (28 July 2023) Pair sentenced for profiteering from Covid pandemic

63. A potential area of criminality was the risk of fraudulent claims by individuals or companies, overstating their ability to secure the correct products quickly in order to secure contracts. The Fraud Act 2006, introduced in light of a Law Commission report in 2002, introduced a general statutory offence of fraud and simplified the legal framework. The offence of fraud can be committed by false representation (section 2 of the Fraud Act), failing to disclose information (section 3) or abuse of position (section 4). For an offence to be committed, a person must have acted dishonestly to make a gain for themselves or someone else, to cause loss to someone else or to expose them to the risk of loss. In a procurement context, fraud is, therefore, a dishonest act to deceive, at any stage in the procurement cycle, to make a financial gain or cause a loss.⁴²
64. The risk of fraudulent activity was particularly great at the earliest stage of the pandemic when advance payments were being offered to potential PPE suppliers without an established due diligence exercise being carried out by the government. Whether claims were made fraudulently depends on the factual background and evidence indicating false representations and dishonesty. Such behaviours and criminality should have been mitigated by clear and comprehensive due diligence procedures as part of the procurement exercise.
65. There have been numerous press reports that suppliers of healthcare equipment, including some in the HPL, made excessive profits from public contracts during the pandemic.⁴³ Price gouging is regulated by the Competition and Markets Authority (CMA). Section 18 of the Competition Act 1998 provides that conduct which amounts to the abuse of a dominant market position is prohibited if it may affect trade within the UK and that abuse can consist of “directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions”. On 18 June 2020, the CMA opened one investigation into four pharmacies and convenience stores suspected of charging excessive and unfair prices for hand sanitiser during the pandemic but closed it three months later after deciding

⁴² National Fraud Authority (October 2021) Procurement Fraud in the Public Sector

⁴³ The Times (11 December 2022) The PPE Rich List: Covid firms unmasked; BBC News (17 November 2020) Go-between paid £21m in taxpayer funds for NHS PPE; Private Eye (November 2021) Profits of Doom The Companies and Middlemen Who Cashed in on Covid... And How They Did It

there was no evidence of a breach of the Competition Act.⁴⁴ We are unaware of evidence that the CMA used its powers to look at the abuse of a dominant market position in pandemic health equipment and supplies to the UK government.

66. Another potential area of criminality was the risk of civil service decision-makers and ministers being offered, directly or indirectly, financial or other incentives to give preferential treatment to companies in a procurement exercise. Any such incentives would engage the Bribery Act 2010. The Bribery Act 2010 prohibits offering or giving financial or other advantages and soliciting or receiving them or inducing or influencing the performance of a relevant function or activity. These risks should have been assessed and mitigated through checks and balances in the procurement exercise.

67. The HPL posed a particular risk from a wider perception of potential corruption. Allegations have been levelled that ministers or senior government advisors/officials may have influenced decision-making, whether inadvertently or otherwise, in order to give preferential treatment to their friends or associates.⁴⁵ If such allegations were true, they may give rise to the common law offence of misconduct in public office, although this is a difficult offence to prove. Public officials do make mistakes and only misconduct of the most serious kind would satisfy the high criminal test. A Law Commission report published in December 2020 identified problems with the offence and called for it to be repealed and replaced with two statutory offences.⁴⁶ Mitigation for such misconduct could have been achieved by securing independent decision-makers, operating with clear selection criteria, overseen by other independent officials and recording a comprehensive audit trail.

68. On 3 May 2023, the EU proposed a Directive on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the EU and amending Directive 2017/1371. This would commit EU states to adopt non-mandatory articles from the UN Convention Against Corruption (UNCAC): trading in influence (Art. 18 UNCAC), abuse of functions (Art. 19 UNCAC) and illicit enrichment (Art. 20 UNCAC). The

⁴⁴ CMA (19 June 2020) Hand sanitiser products: suspected excessive and unfair pricing

⁴⁵ Good Law Project Scrutinising PPE Procurement

⁴⁶ Law Commission (4 December 2020) Misconduct in Public Office

UK is a signatory to UNCAC but has opted not to adopt these offences. The trading in influence offence is also a requirement under Article 12 of the Council of Europe’s Criminal Law Convention on Corruption, but the UK has sought a derogation. These would have tackled the more diffuse forms of corrupt activity that took place during the pandemic.

Other Institutions, Regulations, and Governance

69. **Section Summary:** In relation to the above sections on specific regulations and mitigations against misconduct and criminality, we were also asked to provide information on the principal institutions of oversight of these issues. This section highlights the key institutions, focusing in particular on law enforcement and anti-corruption.

(SFO) Serious Fraud Office

70. In early 2020, the SFO was (and remains) the highest profile investigator and prosecutor of complex fraud, bribery and corruption cases. Section 1 of the Criminal Justice Act 1987 provides the SFO with powers to both investigate and prosecute criminal cases in accordance with the Fraud Trials Committee 1986 Roskill Report. The SFO continued to operate during the Covid-19 crisis, investigating and prosecuting its existing casework,⁴⁷ although it struggled initially with an IT infrastructure that lacked the flexibility for home-working.⁴⁸ It does not appear to have played any significant role in investigating Covid-related fraud, although the former Director SFO, Lisa Osofsky, suggested that the SFO was investigating a “small number” of Covid cases.⁴⁹ This is likely to include the agency’s investigation, announced in May 2021, into suspected fraud and money laundering in relation to the financing and conduct of companies within the Gupta Family Group (GFG) Alliance, including its financing arrangements with Greensill Capital UK Ltd. Greensill made loans to companies within the GFG Alliance through the Coronavirus Large Business Interruption Loan Scheme. Whilst the SFO does not appear to have taken on any remit to target or combat Covid-19 fraud in a broader sense, Lisa Osofsky said at the

⁴⁷ SFO (7 May 2020) Covid-19 update

⁴⁸ HMCPSI (July 2020) SFO response to COVID-19: 16 March to 8 May 2020

⁴⁹ Reuters (19 October 2022) UK fraud office investigates COVID-related cases

time that they would consider individual cases which met the SFO criteria for referral. No SFO Covid-related charged cases appear to have been reported since October 2022.

(NCA) National Crime Agency

71. The NCA was created by the Crime and Courts Act 2013, with a remit to investigate serious and organised crime across a range of crime types, including fraud, bribery and corruption. It has no prosecution function and refers most cases to the Crown Prosecution Service (CPS) Serious Economic, Organised Crime and International Directorate (SEOCID). The NCA has no dedicated domestic corruption team but has a substantial International Corruption Unit (ICU) tasked with investigating international bribery and corruption. The NCA has a live investigation into PPE Medpro, arising from contracts awarded to procure PPE, which has been widely reported. Arising from that investigation, it was reported that the CPS had restrained around £75m worth of assets.⁵⁰ The NCA does not appear to have been given a specific remit to investigate possible fraud relating to the award of contracts by DHSC for the supply of PPE, hospital ventilators or Covid-19 LFD tests.

72. The NCA was very active during the pandemic in both reducing the threat of online harm and highlighting the risk of fraud to the public. The National Economic Crime Centre (NECC), led by its Director Graeme Biggar (now Director-General of the NCA), coordinated a response designed to protect the public, working in conjunction with the City of London Police, the national lead force on fraud.⁵¹ Fraud was already identified as a priority threat in the NCA Action Plan 2020-21, and that remains the case in subsequent NCA Action Plans for 2021-22 and 2022-23.⁵² The focus of NCA investigations and the role of the NECC in coordinating a national response to fraud and other economic crime, has been directed at protecting the public and businesses rather than government.

Police Forces

⁵⁰ FT (25 January 2020) *Michelle Mone hit by court order on £75mn of assets in NCA fraud probe*

⁵¹ NCA (26 March 2020) *Beware fraud and scams during Covid-19 pandemic fraud*

⁵² NCA (12 May 2022) *National Crime Agency Annual Plan 2022-2023*

73. During the relevant period, the 43 police forces across the country all had capability to investigate fraud, bribery and corruption cases related to Covid-19. The level of economic crime investigative resource varied enormously between police forces and will have competed with other demands, many attracting higher priority. Police fraud referrals were, in the main, directed through Action Fraud and the National Fraud Intelligence Bureau, both managed by the lead force, City of London Police. In common with the NCA, police force investigative activity was focused on protecting the public and businesses rather than addressing potential fraud against the government.⁵³ Cases will have been referred to CPS Areas or Directorates for charging decisions and prosecution.

Crown Prosecution Service (CPS)

74. The CPS is the largest prosecutor of criminal cases in England and Wales, prosecuting a range of offences for police forces and other investigative agencies. That prosecution function is performed by the Crown Office and Procurator Fiscal Service (COPFS) in Scotland and the Public Prosecution Service for Northern Ireland. The CPS has 14 regional areas that prosecute the bulk of cases, including most police-investigated fraud. Larger, more complex fraud investigations, including those generated by other investigative agencies, are referred for charging decisions and prosecution by the CPS SEOCID.

75. During the Covid-19 pandemic, the position was slightly different because SEOCID was only created in April 2022. Before that date, large and complex fraud, bribery and corruption cases were all referred to the Specialist Fraud Division (which merged with the Organised Crime Division to create SEOCID). During the pandemic, pressures on Criminal Justice progression were very significant because the need to conduct hearings safely meant that most criminal trials were halted. The CPS recognised this difficulty and following liaison and discussion with the National Police Chiefs Council, HM Courts and Tribunal Service and the judiciary, agreed and issued an Interim Charging Protocol on 8

⁵³ BBC News (24 March 2021) Covid fraud: £34.5m stolen in pandemic scams

April 2020. This set out the different timescales for charged cases to enter the Criminal Justice System, which included “Immediate” referral of Covid-related offending. The Protocol recognised the importance of rapid action to deter future Covid-related offending and its aggravating features. In common with law enforcement partners, the CPS also issued warnings to the public concerning the risks of fraud.

76. The CPS issued a “*coronavirus flag*” on its case management system, which captured nearly 6,500 (concluded) prosecutions in the first six months after the lockdown. Many of these involved breaches of Covid regulations, assaults on emergency workers, and public order offences. Some will certainly have involved attempts to defraud members of the public. By way of example, in July 2020, the CPS warned the public about fraudsters exploiting the pandemic after a man was jailed for 30 weeks after offering fake tax refunds, which purported to be from the government.⁵⁴ The CPS has subsequently brought successful prosecutions relating to the award of bounce-back loans, some involving organised criminals and some dishonest individuals. They have also included cases involving the sale of fake Covid-19 tests to the public, and there are matters awaiting trial for fraud against the Coronavirus Job Retention Scheme, which is beyond the scope of this module.⁵⁵

HMRC

77. In response to the Government’s £70bn offer to support businesses under the Coronavirus Job Retention Scheme (CJRS), HMRC administered online payments through the scheme. HMRC were well-placed to deal with this as they operated the PAYE and personal tax system. They also have both civil and criminal investigative capability, with powers under the Finance Act 2020 to deal with CJRS fraud offences. Any matters referred for criminal prosecution will have been sent to the CPS. HMRC have deployed significant resources to investigate and address CJRS over-claims with a £100m Taxpayer Protection Taskforce of 1,200 HMRC staff. Suspicious claims were identified and stopped, and HMRC has sought recovery on over-claims. According to reports in the Financial

⁵⁴ CPS (17 July 2020) CPS warns - don't get caught by COVID fraud

⁵⁵ CPS (28 July 2023) *Pair sentenced for profiteering from Covid pandemic*

Times, HMRC has addressed these pragmatically, seeking to recover monies wherever possible. The number of reported 'tip-offs' about false claims neared 30,000 during the pandemic. Only a relatively small number of the most serious cases are likely to involve criminal prosecutions, and none appear to have been concluded. These are being conducted by SEOCID in the CPS.

National Investigation Service (NATIS)

78. NATIS is an investigative body set up by Thurrock Borough Council in 2018, originally intended to investigate local authority fraud on behalf of other local authorities and to generate income for the council. In 2020, NATIS was tasked by the then Department of Business Energy, Innovation and Skills (BEIS) to lead the investigation of organised criminal gangs targeting the UK Government financial support scheme provided in response to the Covid-19 pandemic. This included Bounce Back Loans (BBL) and the Business Support Grant (BSG), and the government invested £6m in NATIS to investigate these cases. NATIS has been the subject of some controversies.⁵⁶ In 2024, it was reported that NATIS was a department within Thurrock Council which had been given £30 million by the government to tackle abuse of the BBL scheme and a police.uk web domain, but which had no police powers.⁵⁷

79. NATIS has concluded a small number of straightforward cases which were successfully prosecuted by SEOCID in the CPS (example referenced). Given that £47bn was distributed through these loans and it was reported in August 2022 that some 17bn may have been lost to fraud, error or insolvency,⁵⁸ there are serious questions about whether NATIS were the best organisation to take on the role, whether it had operational independence, and whether it had the necessary powers and capabilities to deal with

⁵⁶ East Anglia Bylines (28 May 2024) Thurrock's NATIS scandal: how we got here

⁵⁷ The Times (6 May 2024) Council posed as police during Covid fraud crackdown

⁵⁸ BBC News (2 August 2022) Thousands of small firms go bust owing millions in bounce back Covid loans - BBC News

organised crime. A review by the audit firm Mazars in 2024 raised concerns about governance, finding that NATIS was not properly overseen by ministers or the Council.⁵⁹

Insolvency Service

80. Investigations into BBL and the BSG were also undertaken by the Insolvency Service. The Insolvency Service is an executive government agency sponsored by the current Department for Business and Trade (DBT), which was in effect BEIS at the time of the Covid-19 pandemic. It has both the ability to investigate wrongdoing and to prosecute cases and has been active in pursuing companies and individuals in connection with Bounce Back Loans and other government support. By 2022, the government reported that it had secured 106 director disqualifications and 48 bankruptcy restrictions and wound up 13 companies.⁶⁰ Examples show that that work continues in 2024.

Competition and Markets Authority (CMA)

81. The CMA is an independent non-ministerial government department overseen by a Board. Its function is primarily to ensure the operation of fair markets in the UK, combat cartels and other unfair practices and support consumers. It has an advisory role within government and regulatory regimes to encourage competitive practices. The CMA has investigatory and prosecution functions.

82. During the Covid-19 pandemic, the CMA conducted work to protect consumers, particularly in relation to cancellations caused by lockdowns and excessive prices charged to consumers for the provision of PCR tests and other products such as hand sanitisers.⁶¹ On 20 March 2020, the CMA launched a Taskforce to address these areas and provide wider support to the government during the crisis, with the objectives to:⁶²

⁵⁹ The Times (19 August 2024) Pandemic benefits 'police' unit lacked governance, report finds

⁶⁰ Treasury (29 May 2024) Government Action on Fraud in Covid Support Schemes

⁶¹ CMA (15 March 2021) Protecting consumers during the coronavirus (COVID-19) pandemic: update on the work of the CMA

⁶² CMA (30 March 2020) CMA launches COVID-19 taskforce

- a. scrutinise market developments to identify harmful sales and pricing practices as they emerge;
- b. warn firms suspected of exploitative practices like unjustifiable prices or misleading claims;
- c. take enforcement action in relation to competition or consumer protection law;
- d. equip the CMA to advise the government on emergency legislation if there are negative impacts for people which cannot be addressed through existing powers; and
- e. enable the CMA to advise the government on how to ensure competition law does block measures to protect public health and support the supply of essential goods and services.

83. An update on the work of the Taskforce was published on 24 April 2020.⁶³ Based on 21,000 complaints about Covid-related issues between 10 March and 19 April 2020 and information received from consumer bodies, the CMA's principal concerns related to unfair practices in relation to cancellations and refunds and unjustifiable price increases, particularly for essential goods. The Taskforce had responded to complaints about unjustifiable price rises by writing to 26 trade associations, engaging with online retail platforms, and contacting individual businesses. By 19 April 2020, the Taskforce had written to 187 businesses, accounting for a total of over 2,500 complaints, seeking information or expressing concerns. The Taskforce does not appear to have had any role in assessing DHSC contract arrangements for the provision of PPE, hospital ventilators or LFD tests.

NHS Counter Fraud Authority (NHSCFA)

84. The NHSCFA is a special health authority, accountable to the DHSC and tasked to lead the fight against fraud, bribery and corruption in the NHS. It provides support and guidance to Local Counter Fraud Specialists (LCFS) in hospital trusts, both from a prevention and

⁶³ CMA (24 April 2020) Protecting consumers during the coronavirus (COVID-19) pandemic: update on the work of the CMA's Taskforce

investigative capacity. NHSCFA also conducts its own investigations into more serious criminality and refers cases to CPS SEOCID for charging and prosecution.

85. NHSCFA's website still includes guidance specifically concerned with mitigating the risk of fraud during the pandemic.⁶⁴ This deals with a range of threats for both NHS Trusts and their employees. It specifically provides guidance on the risks associated with procurement fraud, directed towards senior leaders, LCFS and NHS staff working in procurement, finance and payroll teams. It highlights the risks associated with the relaxation of procurement rules and practices, the need to work with urgency and onboarding new suppliers. It also provides guidance on due diligence and references other guides, including those issued by the Cabinet Office through its Government Counter Fraud Function. It is not clear whether the NHSCFA was tasked to investigate potential frauds arising from central government procurement of PPE, hospital ventilators and LFD tests.

Government Counter Fraud Function

86. The UK Government's Counter Fraud Function (CFF) was established in 2018 and was one of the government's 14 functions which align resources to undertake work in areas of expertise. These functions are embedded across government departments and public bodies. The purpose of the CFF (led by the Public Sector Fraud Authority since August 2022) was to ensure the effective management of counter fraud, bribery and corruption activity in government.

87. The Cabinet Office formed a Covid-19 Fraud Response Team to assist the government with its counter-fraud response. Guidance highlighted the enhanced risk of fraud during the Covid crisis, with one imminent public sector threat being "*First party application fraud*". This would involve an applicant misrepresenting their position to qualify for a grant or scheme.

⁶⁴ NHS Counter Fraud Authority COVID-19 counter fraud guidance

88. It is not clear to what extent guidance from the Cabinet Office Counter Fraud Function was embedded into the pandemic procurement exercises for PPE, hospital ventilators and LFD tests. The Cabinet Office commissioned Nigel Boardman, a non-executive board member for the Department of Business Energy and Industrial Strategy, to conduct two reviews (December 2020 and May 2021) related to Cabinet Office Covid-related procurement. The Boardman recommendations to improve procurement exercises were accepted in full by the Chief Operating Officer of the Cabinet Office.

Independent Advisor on Ministerial Interests

89. There was during the pandemic, and remains, limited oversight of ministers' compliance with the Ministerial Code in order to mitigate wrongdoing and ensure adherence to the rules. The Independent Adviser on Ministers' interests is appointed by the prime minister, without a formal appointment process, to provide advice on the Ministerial Code. This non-statutory role was first created in 2006. There is an expectation, set out in the Adviser's terms of reference, that they will publish a List of Ministers' Interests twice each year, setting out the relevant private interests of ministers. The role of the Adviser in helping ministers manage their conflicts of interest and declaration of interests is set out further below.

90. The Adviser has insufficient powers or operational independence to properly police the Ministerial Code – a non-statutory document which exists at the discretion of the prime minister – and to maintain high standards in government. In particular, they are unable to initiate investigations into suspected breaches of the Ministerial Code without prior authorisation from the prime minister. In a report published in November 2021, Standards Matter 2, the Committee on Standards in Public Life highlighted a series of problems with the role and made recommendations, including:⁶⁵

⁶⁵ Upholding Standards in Public Life Final report of the Standards Matter 2 review The Committee on Standards in Public Life November 2021

https://assets.publishing.service.gov.uk/media/617c02fae90e07198334652d/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf

- 87.1 The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.
- 87.2 They should be able to initiate investigations into breaches of the Ministerial Code.
- 87.3 They should have the authority to determine breaches of the Ministerial Code.
- 87.4 Their findings should be published no more than eight weeks after a report has been submitted to the prime minister.
- 87.5 In order to guarantee the independence of the Adviser, key features of their office should be established in primary legislation, including their remit to initiate investigations, conduct investigations and determine breaches of the Ministerial Code.
88. The government responded to the report years later and after the relevant period, in July 2023, stating that the Adviser should continue to be a direct ministerial appointment; their terms of reference had been updated with the effect that they could initiate an investigation “*having consulted the prime minister*” whose consent could be withheld in exceptional circumstances if they decide there are public interest reasons for doing so; the Adviser helps the prime minister to decide whether there has been a breach of the Ministerial Code, but should not determine a breach; and the Adviser (and other standards watchdogs) should not be established in primary legislation.

Statistical Analysis

89. **Section Summary:** As part of our statement, we were asked to outline findings with regard to the total number and value of contracts for key healthcare equipment and supplies; the breakdown of these by buyer and type of contract award procedure; and the ease with which the public (which includes organisations such as the UKACC) are able to use publicly available data to assess government procurement activity. Whilst this latter part about transparency will be covered in a different section, here we provide statistical analyses as they relate to potential fraud, bribery, corruption, misconduct in public office, and any other wrongdoing.

Transparency International UK: Behind the Masks data

90. The following information derives from the above titled report, released in September 2024.⁶⁶ For ease, we have omitted various charts and graphs that are available in the full online report. A separate section of this statement covers the High-Priority Lane in more depth.

91. UK public procurement costs averaged £341 billion a year from 2018 to 2023, and they make up one-third of all public sector expenditure.⁶⁷ In this section, we present spending patterns in UK Covid-19 procurement by using official data from February 2020 to February 2023. From data available on official procurement portals, we identified £48.1 billion related to the pandemic response. This spending involved 430 buyers, 2,556 suppliers, and 5,035 contracts.

92. The value of UK Covid-19 contracts peaked in 2020 at a total of £29.1 billion for the year, exceeding the total for subsequent years. This expenditure gradually declined through 2021 before decreasing to a minimal level by mid-2022 and staying at this low rate until February 2023. We can divide the types of goods and services bought into six main categories (testing, PPE, patient care, vaccination, vulnerable support, and others). The combined expenditure on personal protective equipment (PPE) and testing was £38.1 billion, or 79 per cent of the value of all Covid-19 contracts. The contracting authorities awarded almost all the PPE contracts during the period from February to November 2020. Meanwhile, contracts for testing were awarded more consistently over a two-year span from February 2020 to December 2021.

93. Five contracting authorities signed 85 per cent (£41 billion) of Covid-19 contracts by value:

93.1 Department of Health and Social Care (DHSC): £27.6 billion

93.2 Collaborative Procurement Partnership LLP (CPP): £4.7 billion

93.3 UK Health Security Agency (UKHSA), which includes its predecessor, Public Health England: £3.4 billion

93.4 NHS England (NHSE): £3.3 billion

⁶⁶ Transparency International UK: Behind the Masks – Corruption Red Flags in Covid-19 Public Procurement

⁶⁷ Institute for Government, Government procurement: The scale and nature of contracting in the UK (December 2018) p. 5 https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_procurement_WEB_4.pdf

93.5 Crown Commercial Service (CCS): £2.1 billion

94. The contracts in our sample varied in size. Contracting authorities signed 112 contracts worth over £100 million each, which together accounted for around £30.4 billion (63 per cent) of the total allocated to all Covid-19 procurement. Just over £25.3 billion of these 'mega contracts' fulfilled immediate needs for PPE and testing, primarily in the first year of the pandemic. The largest of these, valued at up to £1.7 billion, was for various types of PPE supplied by Full Support Healthcare Limited. The 10 largest contracts, altogether valued at £9.5 billion, accounted for a fifth (20 per cent) of all awards by value. Within these huge contracts, an even smaller subset of suppliers played a disproportionate role in procurement spending related to Covid-19. Out of more than 2,000 companies, just 10 received £14.9 billion between them – making up nearly one in every three pounds of Covid-19 contract spending. The US-based Innova Medical Group Inc. leads this list with contracts valued at £4.2 billion, all for testing products.

Corruption red flags in need of further investigation

95. Transparency International UK found 135 contracts worth over £15.3 billion, where we think there is merit for closer scrutiny. These account for one in every three pounds allocated to Covid-19 contracts.

96. For the Behind the Masks report, we were able to draw from a wide range of data points, including additional evidence from public authorities, media outlets and academia, and contract data covering a long period of time. We refined our methodology to a list of 14 red flags.

- i. Contracts awarded without competition
- ii. Contract award published late
- iii. Part of the High-Priority Lane process
- iv. Supplier is a relatively new company
- v. Supplier owned by corporate entity offshore at the time of award
- vi. Persons of significant control involved in a trust structure
- vii. Supplier was dormant just prior to the contract award

- viii. Supplier was or became a micro entity after receiving a large contract
- ix. Politically connected company
- x. Supplier dissolved before award
- xi. Supplier not formed at the time of award
- xii. Supplier owned by a company based in 'secretive' jurisdiction
- xiii. History of faulty/unusable products or poor contractual outcomes
- xiv. Issues cut across all three aspects of the process (initial process, supplier profile, contract outcomes)

97. Using this approach, we count 135 sizeable Covid-19 contracts with three or more corruption red flags, totalling £15.3 billion, whose awards merit further investigation. These 135 contracts account for 32 per cent of the total Covid-19 contract expenditure – almost one in every three pounds allocated to the pandemic response. This sum is on par with the entire amount spent on Covid-19 PPE contracts by public authorities in the UK. Contracting authorities signed almost all these contracts in the first two years of the pandemic (99 per cent by count and value). The vast majority of the contracts were for acquiring PPE or for obtaining testing products and services (97 per cent by value). The most common red flags were delayed publication of contracts and those awarded uncompetitively. However, most of these contracts exhibited red flags across multiple areas of risk – including those associated with the supplier profile, the procurement process and the contract outcomes – and often spanning all three. Some contracts displayed as many as eight red flags. Most of the high-risk contracts we identify in our study were awarded during the first six months of the main pandemic response.

98. To date, there have been a number of official reviews into the awarding of Covid-19 contracts that cover testing contracts awarded to Randox Laboratories Ltd and the general management of PPE contracts.

99. These reviews have progressed alongside investigations by various civil society organisations and the media.

100. We found that 182 high-value contracts worth £5.4 billion were awarded to politically connected suppliers. This is equivalent to over one in every ten pounds spent

on Covid-19 procurement. We define 'politically connected' as falling into one or more of the following categories: •

- 100.1 Donors: either the supplier or an individual controlling the supplier company had donated to the party of government at the time within the last two decades.
- 100.2 Senior political figures: the company was controlled by, had a controlling individual who was related to, or employed a senior figure of the party of government at the time.
- 100.3 Other affiliations: the company or its owners were connected to the parties of government at the time in a way not mentioned above – for example, through informal relationships or past professional connections.

101. High-value contracts with politically connected suppliers make up just 3 per cent (182) of our dataset, yet by value, they represent 11 per cent (£5.4 billion) of all Covid-19 contracts. Public authorities spent 99.7 per cent (£5.4 billion) on these politically connected high-value contracts in the pandemic's first two years, with 63 per cent (£3.4 billion) signed in 2020 alone. Almost all these awards were for testing products (£3.2 billion) or PPE (£1.9 billion).

Contract Finder data analysis of UK transparency requirements

102. Open Contracting Partnership downloaded and analysed all the notices from the UK's Contracts Finder portal to at the timeliness and completeness of the information available on the UK's Covid-19 PPE contracts.⁶⁸

103. We used the Contracts Finder OCDS dataset that contains all the information of notices from Contracts Finder.⁶⁹ We selected all award notices awarded between January 1 2020 to December 31, 2023. For each award, we extracted the relevant tender notice with details on the buyer, the procurement method used, the award date, the awarded value and the publication date (in Contracts Finder). We also have the contract period

⁶⁸ https://colab.research.google.com/drive/1C5ihBLSjhgOo04OWR1FjEtVcKbF0IF3s?usp=drive_link

⁶⁹ <https://www.contractsfinder.service.gov.uk/apidocumentation/Notices/1/GET-Published-Notice-OCDS-Search>

dates and the relevant documents published. Awards with no award values were excluded from the analysis.

104. As there are no classifiers related to Covid contracts, we used a keyword search to identify them, including “*PPE, Personal Protective Equipment, Covid, Coronavirus, COVID 19, COVID-19, SARS-CoV-2, 2019-nCoV, pandemic*” with a contract award date should be between January 1, 2020 to December 31, 2022. Using those keywords, we found 4387 matches. From these, we created three categories:

104.1 Covid and PPE: includes only contract notices that have both PPE or Protective Equipment and any of the Covid-related keywords above in the notice title or description. In total, this category has 554 contract notices covering some GBP 15,820,859,820 over the three years, the vast majority of which, by number of contracts and by value, were awarded in 2020.

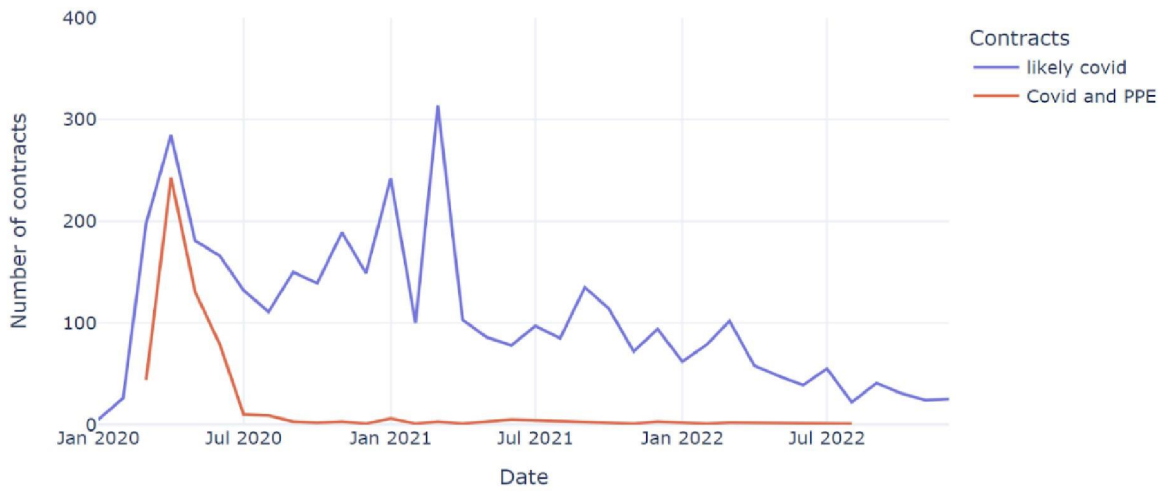
104.2 Likely Covid contracts: this includes all the other contract notices that have any of the keywords. For instance, it can include Covid-19 in the title or description but does not include PPE. This category has 3837 notices and likely has more false positives, covering some GBP 68,460,976,623 in total spending over the three years. This analysis excludes contracts where no contract award notice was issued or only published on TED (Tenders Electronic Daily) or Find a Tender Service, but not on Contracts Finder.

104.3 Non-Covid contracts: includes all the contract notices in the selected period that do not have any of the mentioned keywords.

105. We note that the analysis is likely to include “false positives” (non-Covid-19 related contracts nonetheless tagged as such, for instance, PPE contracts not related to Covid-19 or contracts that refer to recovery after Covid-19). We might also have “false negatives” (Covid-19 related contracts not identified as such as the relevant keywords were not used in the contract description). We accept the data is imperfect and incomplete, so conclusions from any analysis should be tentative and intended to inform more lines of inquiry for follow-up.

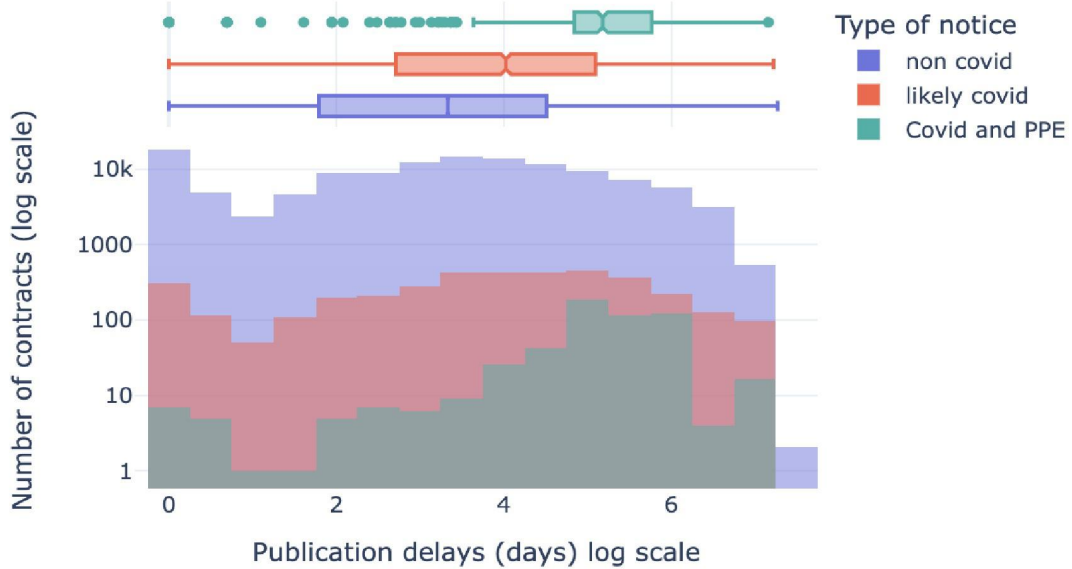
106. We note a rapid spike in the number of COVID PPE contracts (Category 1) that peaks in April 2020 and tails off by June 2020, but a much longer peak of likely COVID contracts (Category 2) that shows additional peaks in activity in January and March 2021.

Total number of Covid related contracts over time



(category 1)

Distribution of publication delays (log)



(category 2)

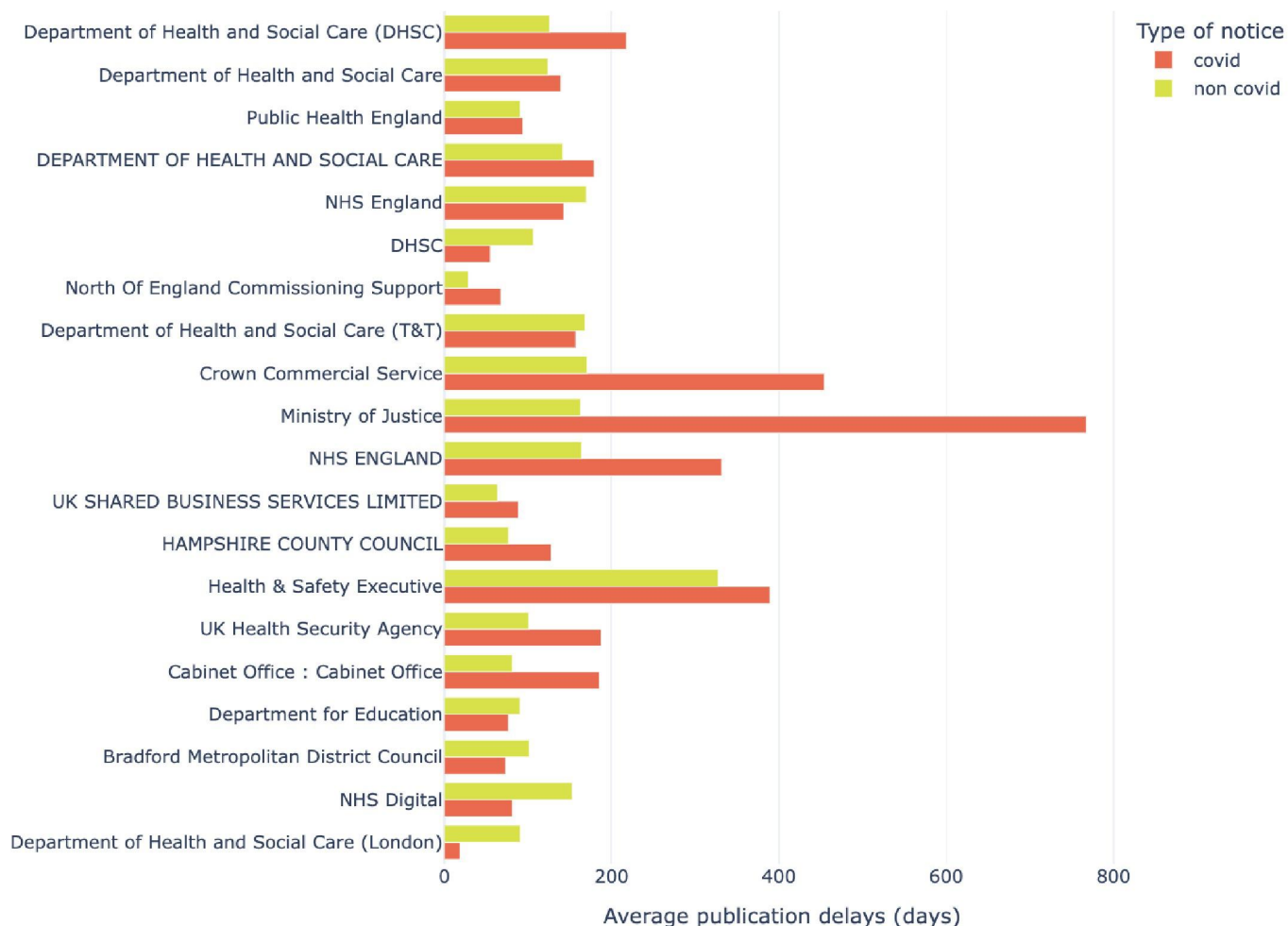
107. We note that some 68% of the Covid PPE contracts we identified (category 1) came from either direct awards or a negotiated procedure without prior publication (above threshold method). This corresponds well with data we collected from Europe's Tenders Electronic Daily for UK Covid procurement, and we note that this was a higher proportion of awards using negotiated procedures without prior publication compared to European peers. This is mentioned in more detail in the international comparisons section of this statement.
108. Importantly, we can infer some important lessons on the timeliness and transparency of the UK's Covid-19 related contract information from Contracts Finder data. We can measure the delay between the contract award date and the publication date for that award notice in Contracts Finder. This reveals a fairly concerning discrepancy. Looking at all the UK's contracts over the period, we see an average of 85 days from the date of the award to the publication of the award notice. The average delay was 132 days for all Covid-19 tagged contracts (category 2), whereas for Covid-19 PPE contracts (category 1), it took an average of 236 days from contract award to publication of the award notice.
109. We used an OLS (ordinary least squares) regression model to look at these differences. All Covid-related contracts had, on average, a 49 day longer publication delay than non-Covid-19 contracts (controlled by the award value, procurement method and procurement category). And looking at only Covid PPE contracts, the results show that these contracts had, on average, a 125 day longer publication delay than non-Covid-19 contracts (again, controlling for the award value, procurement method and procurement category).
110. This is a counter-intuitive finding. The UK PPE market was in chaos. Good information to connect buyers to suppliers is key to help source supplies of PPE. Yet, perversely and surprisingly, this vital information is more delayed and less available than ordinary procurement information. We think that it should be a priority for the Inquiry to establish what the causes of this delay could have been. Why was routine contract publication so delayed for Covid PPE? We think that it is important that the Inquiry looks at this to understand why the publication of the most important contracts being concluded in the country at the time of the pandemic response was so delayed.

111. Were administrative commitments forgotten or explicitly de-emphasised in a rush to conclude new contracts? Was this a side effect of the use of the HPL process whereby contracts negotiated there had no associated follow up related to publication? Could it have been that the political nature of the referrals led to enhanced commercial sensitivity around publication and additional redaction and administrative burden on contracting officers? The Inquiry should investigate this further. If the government has a full definitive list of HPL contracts, their publication performance could be analysed in more detail. One clear policy lesson is that the UK could learn from other countries' Covid emergency response, where the obligation on anyone concluding an emergency contract or direct award is more immediate publication. We give multiple international comparisons in the later section.

112. It is also interesting to note which UK central government institutions have particularly poor performance on publication delays of Covid-19 related contracts versus their other contracts. Category 3 below illustrates this for the top 20 UK buyers with the most Covid-19 related notices. Poor performers that stand out as having a worse relative Covid-19 contract publication are the Department for Health and Social Care (note it appears multiple times as its institutional data seems to be entered differently by different users in Contracts Finder), Crown Commercial Services (CCS), Ministry of Justice, NHS England, the Health and Safety Executive and - surprisingly given its role as the procurement regulator - the Cabinet Office. CCS is also surprising given its central procurement function - it should have a routine process in place to award and publish contracts, so why would its Covid contracts be any more delayed than the other frameworks that it oversees?

Average publication delays by organisation

Top 20 buyers with more covid notices



(category 3)

Transparency

113. **Section Summary:** As part of our statement, we were asked to set out our requests for material and/or information which have been made by UKACC in relation to the procurement of key healthcare equipment and supplies during the pandemic by the UK Government and governments of the devolved administration.

114. We highlight key Freedom of Information request correspondence and set out any refusals for material and/or information as a result of our requests. Further, we set out the work we have undertaken by way of checking that contracts for PPE and other key healthcare equipment and supplies during the pandemic were published within the time limits required by the Procurement Contract Regulations. We give our estimates as to how many contracts for PPE remain unpublished.

115. This section includes various case studies that demonstrate a lack of transparency in key areas, including contract details on PPE and disposals, meeting disclosures, and WhatsApp conversations. The UK government failed to publish numerous contract documents and award notices related to the procurement of PPE and other healthcare supplies during the pandemic. Many contracts, including those from SCCL, NHS England, and DHSC, were published late or not at all. The section notes government bodies' frequent use of exemptions to deny FOI requests, such as claims of commercial sensitivity, high cost of retrieving information, or protection of personal information. The UK government's transparency was called into question multiple times for its lack of timely and complete disclosures. This section emphasises the importance of greater accountability in government procurement practices. The lack of transparency in procurement processes led to increased scrutiny of the impact on public funds, particularly concerning unused PPE, contracts for Covid-19 tests, and other healthcare equipment that resulted in significant wastage and financial loss.

Freedom of Information (FOI) requests

116. An analysis of 59 Contract Award Notices for PPE ordered in early 2020 by SCCL worth £4.7bn that were not published on Contracts Finder until June 2021 established that the contracts had not been published and, despite a Freedom of Information request dated 24th January 2023 **PM/02 [INQ000507573]** and coverage by the Financial Times in an

article on 28 August 2023,⁷⁰ these contracts and details of the items ordered remain unpublished.

117. 15 DHSC Covid-19-related contracts worth £33.3 million, including some for PPE, were published in March, April and June 2023 after a Freedom of Information request was submitted by Chris Smith to DHSC in January 2023. **PM/03 [INQ000507574]**

118. Chris Smith sent an email to Jacqui Rock, Chief Commercial Officer at NHS England, on 18th May 2023 **PM/04 [INQ000507575]** about 272 unpublished Covid-19 related contract documents, worth £7,182,682,833 (including £2,050,700,000 for the procurement of healthcare services from the private sector and £375,302,208 for contracts issued by NHSE **PM/05 [INQ000507576]** and **PM/06 [INQ000507577]**), but a reply was never received nor have the contracts ever been published.

119. The Government undertook to provide quarterly written updates to the Public Accounts Committee for the following data:

119.1 the number and cost of PPE items which, during the quarter: have been received; have been cancelled, with all relevant prepayments recovered;

119.2 Have been (received and) quality assured; have been distributed; have failed the initial quality assurance and are not fit for use in medical settings (i.e. 'not fit for intended purpose');

119.3 have failed the initial quality assurance and are not fit for any purpose ('exit stock');

119.4 the percentage of the total items of PPE ordered in the last complete quarter which were manufactured in the UK;

119.5 the number and cost of items of PPE currently held in central/pandemic stocks;

119.6 whether there are any types of PPE for which the central stocks do not contain at least 4-months' supply under the Department's current planning assumptions (if yes, describe); and

⁷⁰ FT article 28th August 2023 - Full details of UK Covid contracts worth £8bn still to be published Inquiry into government handling of the pandemic finds breaches of Cabinet Office transparency guidelines <https://www.ft.com/content/f5f39f29-bbc5-4dcd-bfef-d7d60c3c4bda>

119.7 the weekly cost of storage of the central stocks of PPE (or, if preferred, the total running cost to date of PPE storage).

120. In response to a Freedom of Information request by Chris Smith dated 10th June 2024 **PM/07 [INQ000507578]** for an update of the above data, DHSC advised that they did not hold the information requested.

121. In the Particulars of Claim **PM/08 [INQ000507579]** in the case between the Secretary Of State for Health and Social Care Claimant and PPE Medpro Limited filed at the Commercial Court on 19th December 2022,⁷¹ DHSC stated that MHRA would not release the PPE covered by the contract in dispute. DHSC's claim included "*storage costs of £6,893,373.00 in respect of DHSC's reasonably estimated storage costs incurred in relation to the Gowns*" and had "*estimated its storage costs from 23 December 2020, the date of the Rejection Notice, until the date of these Particulars of Claim.*" DHSC also included a claim for "*£4,685,328.00, being the reasonably estimated costs of disposing of the Gowns*", bringing the total claim for storage since September 2020 and future disposal to approximately £18,691,009.00.

122. The Particulars of Claim raised issues of public interest in the way DHSC was handling the dispute and whether the principle of value for money was being applied adequately by allowing storage costs for the total quantity of unusable PPE to continue to be incurred by the taxpayer so long after the PPE was rejected on 23 December 2020, during 2 years when DHSC was trying to resolve the dispute before taking legal action and while they await a trial which won't take place until May 2025 at the earliest.

123. It also raises an important issue of whether DHSC did, and continues to, properly mitigate losses to the taxpayer, which may not be recovered if DHSC loses the case during the dispute by continuing to store the total quantity of the rejected PPE and incurring storage costs of £6,893,373 up to the time the case was submitted to the High Court and afterwards which could amount to another £7,112,308.00.

⁷¹ Secretary of State for Health and Social Care v. PPE Medpro Limited <https://caseboard.io/cases/11472be8-7c12-4f04-a20e-80694a66ee0a>

124. Chris Smith submitted a Freedom of Information Request on 5th July 2024 **PM/09 [INQ000507580]**. It requested the following information:

- i. *“What have been the storage costs for the gowns supplied by PPE Medpro but rejected by DHSC?”*
- ii. *How many PPE Medpro gowns have been disposed of so far, and what was the cost of disposing of them?*
- iii. *How were the PPE Medpro gowns disposed of, and who was contracted to dispose of them?*
- iv. *How many gowns supplied by PPE Medpro remain in storage at the end of June 2024?*
- v. *If none of the PPE Medpro gowns have been disposed of so far, please advise the estimated cost of disposing of them.”*

125. The response to the FOI request was negative, and DHSC said it was: *“withholding this information under section 43(2) (commercial interests), section 23 (security matters), and section 31 (law enforcement) of the FOIA”* (Freedom of Information Act) despite figures being declared in open court.

126. A Freedom of Information request was made by Chris Smith concerning two contracts issued by Supply Chain Coordination Ltd (“SCCL”) with Full Support Healthcare (FSH) Ltd worth £1.7bn as there were several red flags identified with these contracts.

126.1 90% of PPE was unused - the SCCL response to a BBC FOI request **PM/10 [INQ000507581]**

126.2 - indicated a write-off estimated to be £1.4bn;

126.3 Reported £100mn storage costs for unused PPE;

126.4 The contract formation is unusual - based on an old 2016 framework agreement;

126.5 No master contract documents or specifications of items ordered have ever been published for the two FSH contracts or 57 other contracts for PPE issued by SCCL;

126.6 A list of the purchase orders provided under an FOI request by Chris Smith totals £1.3bn compared to a combined contract value of £1.8bn declared by SCCL **PM/11 [INQ000507582]**

- 126.7 The two Contract Award notices were not published until a year after the contracts were issued;
- 126.8 There appears to have been a novel arrangement for the procurement undertaken by SCCL, which involved payment of VAT to FSH and suppliers that received 57 contracts issued by SCCL to an estimated value of £980mn, resulting in unnecessary fiscal risk to the taxpayer;
- 126.9 FSH had to proceed at risk for part of the contracts, indicating that financial approvals from the Treasury were too slow **PM/12 [INQ000507583]**
- 126.10 Government policy in force just after the Contract Award notices were issued was that contract documents for call-offs should be published, which they were not in this case.
127. Chris Smith made a Freedom of Information request **PM/13 [INQ000507584]** on 18th April 2023 to NHS England regarding the overdue publication of monthly transparency reports on payments over £25,000 made from April 2021 – March 2023. The total value of unpublished payment data was estimated to be approximately £60bn based on an average monthly expenditure before April 2021 and included payments related to £2bn worth of contracts with private sector hospitals (see CHPI evidence to the Covid-19 Public Inquiry dated 29th August 2024 for Impact of Covid-19 pandemic on healthcare systems in the 4 nations of the UK (Module 3)). It was thought to include some payments for key healthcare equipment and supplies. The delay in publishing such data was a clear breach of the Treasury Guidance for publishing spend over £25,000, which was published 13 May 2013 and last updated on 24 November 2017 **PM/14 [INQ000507585]**.
128. Freedom of Information requests were made by UKACC members Transparency International UK and Russell Scott to obtain the names of the suppliers who benefitted from the HPL established by the government to procure PPE goods. The requests also asked for the names of the individuals who referred the suppliers to the HPL. Please refer to further details provided in the HPL section.

Missing data from departmental spend records and transparency concerns

129. A freedom of information request was submitted on 14 January 2022 **PM/15 [INQ000507586]**, which requested information about DHSC publishing monthly spending data for payments above £25,000. Government guidance requires the name of the supplier who has received any payment above £25,000 to be published. However we analysed the published data covering the period March 2020 to November 2021 and a large number of suppliers names were missing. Instead of providing the supplier name, the entry is incorrectly labelled as 'PGO Foreign Currency Payment'. Circa £1.5bn worth of payments were incorrectly labelled in this manner. We requested to be provided with the correct supplier names.

130. DHSC replied on 11 February 2022 with a substantive response: *“Foreign currency payments are made through the Bank of England as the department does not have foreign currency bank accounts. These, along with some other non-supplier payments, have to be made outside of the department’s finance system and then the details have to be manually added back in. Since the department migrated to a new system in December 2020, the supplier details for foreign currency payments have been added into the Purchase Order description. Prior to December 2020, the details were not manually updated in the legacy finance system... please find attached a spreadsheet with the requested details...The historic missing supplier data will be updated as soon as possible on the GOV.UK”*

131. The DHSC response dated 11 February 2022 was given the reference number “FOI-1384889” and provided further clarity on payments made by the department to suppliers during the pandemic, totalling £1,528,626,273 of which at least £794,176,264 was paid to suppliers of medical equipment during the pandemic.

Unpublished spending data by NHS England and SCCL during the pandemic

132. A Freedom of Information Request was submitted on 26 March 2021 to NHS England requesting information about NHSE’s spend data covering the period of 1 April 2020 to 28 February 2021. NHSE is required to regularly publish spend data above £25,000. However, this information had not been published since March 2020.

PM/20a [INQ000507600]

PM/20b [INQ000507601]

PM/20c [INQ000507602]

133. On 16 June 2021, following NHS England's repeated failures to provide a response, a complaint was issued to the ICO. On 27 September 2021 the ICO contacted NHS England and requested they provide a response to the FOI request within 10 working days. NHS England failed to comply with the initial ICO request.
134. On 20 October 2021, the ICO issued a decision notice (reference IC-113081-Z9M4) to NHS England. The notice instructed NHS England to issue a substantive response to the request. NHS England provided a response and published the missing spending data. Analysis of the spend data revealed that approximately £1.69bn was paid by NHS England to eight private hospital providers between April 2020 and March 2021. The eight firms that received the money were Circle Health, Spire Healthcare Limited, Ramsey Health, Nuffield Health, HCA Healthcare UK, Care UK, Aspen Healthcare and Practice Plus.
135. At the start of the pandemic, the Government issued huge contracts to private hospitals to provide additional capacity, but research by the Centre for Health and the Public Interest (CHPI) discovered that the vast majority of beds reserved were never used. Key findings revealed that, of an estimated 8,000 private beds made available, no more than 78 were used in any one day, and private hospitals delivered only '0.08% of Covid care' overall.
136. A similar request was also sent to the SCCL, and a copy of the FOI request and associated spend data is exhibited in this report. **PM/21 [INQ000507604]**

The cost to the taxpayer for unusable Covid-19 tests and the names of companies supplying these unused goods

137. A freedom of information request was issued on 05 December 2022 to the UK Health Security Agency requesting the following information. *"Please can you confirm the number of Covid tests procured during the pandemic that remain 'Unused'. As well*

as including the quantity of Covid test, Please also include the name of the company who supplied the tests and the value of unused tests in £'s."

PM/24a [INQ000507608]

PM/24b [INQ000507609]

138. The UKHSA replied to the FOI request on 01 February 2023. The reference number "05/12/22/IF/1115" was assigned to the request by the authority. UKHSA confirmed in response the following: *"As of 23 January 2023, the total volume of covid tests held in stock (LFD, PCR, LAMP) is 317 million. The total net book value of covid tests (LFD, PCR, LAMP) held in stock is £279m. Current stock includes supply and distribution to support current testing policies. Current volume of covid tests in stock deemed unusable is 126 million. Between September 2020 and up to March 2022, circa 2.6 billion covid tests have been procured in total."*

139. Furthermore, on 01 March 2023, after an Internal review request, the UKHSA provided the names of the companies that had supplied the 126 million unusable tests. The names were as follows: Abbott Rapid Diagnostics Ltd, Innova Medical Group Inc, Tanner Pharma UK Ltd, Surescreen Diagnostics Ltd, Medco Solutions Ltd, and OptiGen Limited.

140. The UKHSA also confirmed the value of the "unusable" LFD, PCR and LAMP tests to be £246.6mn based on "*the weighted average cost*". The details were obtained by the Good Law Project via a freedom of information request and published online on 13 March 2023.⁷²

Failure to disclose Baroness Harding's meetings with external organisations and companies whilst leading the NHS Test and Trace programme

⁷² £250m wasted on 'VIP' Covid tests

141. A Freedom of Information Request was submitted on 8 February 2021 requesting a schedule of Baroness Harding's meetings from the start of her role in May 2020 through to 31 December 2020. The request included the names of the company/person she met, the date, and a brief description of the meeting's purpose. The request only related to information relevant to her position as Head of Test and Trace.

PM/16a [INQ000507587]

PM/16b [INQ000507588]

PM/16c [INQ000507589]

142. On 04 March 2021, DHSC provided a negative response and withheld the information requested, claiming *"to provide the information as it is currently framed would exceed the appropriate cost limit set out in the FOIA"*. The DHSC did suggest they *"may be able to answer a refined request"*. On 8 April 2021, a refined request was submitted to the DHSC. The information requested was reduced significantly to only cover "external meetings" held by Baroness Dido Harding - whereas previously it included both internal departmental and external meetings.

143. However, it was not until 01 June 2022, circa fourteen months after the refined FOI request was lodged, that the department finally issued its' internal review response. *"After careful consideration, I have concluded that the response you received to your FOI request was compliant with the requirements of the FOIA. Under section 14(1) of the FOIA, this request is deemed vexatious due to its burdensome nature. As stated in the original reply, this request would involve officials going through each diary entry, covering a period of 8 months. This includes officials liaising with the relevant policy teams both internal and external, to consider if any of the content is sensitive enough to need redacting. At the time of the request, this would have been an enormous burden on DHSC when the department dealing with the pandemic."*

144. At the time of writing this report, details of Baroness Harding's meetings with external companies and organisations remain unpublished, which is in contrast to other senior officials such as Chief Medical Officer Chris Witty and Chief Scientific Advisor Sir Patrick Vallance, who do declare and publish details of meetings each quarter. The public doesn't, therefore, have sight of any details of meetings held by Baroness Harding

whilst she led the £37 billion flagship NHS Test and Trace Programme between May 2020 and May 2021.

DHSC withheld names of senior executives hired by Lord Deighton to advise on PPE procurement during the pandemic

145. A Freedom of Information Request was submitted on 20 April 2021 requesting information about the names of the senior executives recruited from the private sector to work with Lord Deighton, along with the start date and finish date for each executive covering their time working for/advising the DHSC during the pandemic.

PM/17a [INQ000507590]

PM/17b [INQ000507591]

146. The DHSC provided a negative response on 18 June 2021 (reference FOI-1324445). The department withheld the information under section 40(2) of the FOIA, which, according to the department, provides the “protection of personal information” and “prohibits” a public body from disclosing the information requested. On the same day (21 June 2021), an internal review request was raised and issued to the DHSC, highlighting a number of concerns with the response, namely that the information was of high public interest and that the naming “senior executives” was permitted under FOIA and supported by ICO guidelines.

147. The DHSC did not provide a response to the internal review request until 15 June 2022 - circa 11 months beyond the usual 20 working day timeframe. The department maintained its position and withheld all the information requested. At the time of writing this report, the public still does not know the names of the “senior executives” hired by Lord Deighton to advise on PPE procurement and who were employed within the “PPE Mobilisation team”.

Refusal to provide email communications between Lord Udney-Lister (former close advisor to Prime Minister Boris Johnson) relating to PPE and Covid-19 testing procurement

148. Witness statements provided by Lord Udney-Lister⁷³ and Dominic Cummings⁷⁴ appear to show relevant communications exist between the PM's advisors relating to the procurement of medical goods during the pandemic.

149. A freedom of information request was issued on 08 November 2023 to the Cabinet Office **PM/23a [INQ000507606] and PM/23b [INQ000507607]** requesting the information relating to these witness statements:

149.1 *"1 - Lord Lister was a participant in a WhatsApp group called 'No.10 coordination group' on the 17 April 2020 (19:27:38) Lord Lister sent the following message: "Spoke to Paul Deighton tonight and gave him my less than kind take on PPE. I know him old he will be good at this". The PM appointed Deighton as "PPE Tsar" 2 days later. Please provide me with a copy of any emails or WhatsApp messages between Lord (Paul) Deighton and Boris Johnson between the date range of 17 April 2020 and 20 April 2020.*

149.2 *2 - Lord Lister claims in his witness statement (page 12) that he sent an email to William Warr (Advisor working in the Cabinet Office/No.10) on the 24 March 2020. Lord Lister claims "I directed William Warr to deal with a global sourcing expert regarding medical and equipment supplies, as well as medical expertise for the UK government". Please provide a copy of the email sent by Lord Lister referred to above dated 24 March 2020 along with the response from William Warr.*

149.3 *3 - Lord Lister claims in his witness statement (page 12) that he sent an email to William Warr on 27 March 2020 directing him to "take forward proposals from the Suman Group (Copying in Shizen) and Reignwood in respect of the provision of medical personnel, PPE and test kits". Please provide a copy of the email(s) sent by Lord Lister referred to above dated 27 March 2020 along with the response from William Warr.*

149.4 *4 - Lord Lister also claims in his witness statement (page 12) "on occasions offers of assistance to supply PPE were brought to my attention and when this happened, I would pass them on appropriately. For example [EL/40 - INQ000217349)". Please provide a copy of the email referred to in example [EL/40 - INQ000217349). Referred to by Lord Lister above.'*

⁷³ INQ000237819 – Witness Statement of Lord Udney-Lister, former Downing Street Chief of Staff, dated 09/08/2023

⁷⁴ INQ000273872 – Witness statement of Dominic Cummings dated 12/10/2023

150. Eventually, after months of delay and following an intervention from the ICO, the Cabinet Office began to respond to the Freedom of Information request. On 23 July 2024, the department issued its internal review response (reference IR2024/03456) and refused to disclose the information. The Cabinet Office said in its response: *“This material is exempt from disclosure under section (31(1)(g) by virtue of sections 31(2)(b) and 31(2)(c) of the Freedom of Information Act 2000, because its disclosure would, or would be likely to, prejudice the administration of justice of a public inquiry (namely the UK Covid-19 Inquiry). In addition, the Cabinet Office informed you that some of the information could also not be disclosed as it is exempt under sections 40(2) (personal information) and 43(2) (commercial interests). To address your view that the information you request is of high public interest, we believe that the UK Covid-19 Inquiry is actively considering the material on this topic which will be examined and disclosed during the Module 5 public hearings. You can find out more about the Inquiry’s module on procurement here: Procurement (Module 5) - UK Covid-19 Inquiry(covid19.public-inquiry.uk)”*.

151. The refusal to disclose copies of Lord Lister and Boris Johnson’s communications has created a potentially important transparency gap which could provide information of high public interest.

Government ministers and senior officials conducting government business via WhatsApp, contracting previous statements to the press

152. Former Health Minister Lord Bethell claimed in an interview with the BBC in June 2023 that the use of WhatsApp messaging during the pandemic was not used for decision-making. Bethell claimed: *“Most of the WhatsApp messages are about coffee and who needs to have what kind of coffee for what kind of meeting. You see, most of this is about frothy material, not about meaningful decision-making.”*⁷⁵

⁷⁵ <https://www.theguardian.com/uk-news/2023/jun/05/covid-whatsapps-used-for-coffee-orders-not-big-decisions-says-ex-health-minister>

153. Sarah Harrison, the chief operating officer at the Cabinet Office during the pandemic, claimed in a witness statement provided during the high court challenge brought by the Good Law Project and the Citizens that WhatsApp use was *“the equivalent to the conversation that might previously have taken place in corridors, or in passing, had there not been a shift to remote working in line with the government’s guidance at that time.”*⁷⁶

154. However, information obtained via a number of Freedom of Information requests suggests that WhatsApp was used by ministers to make departmental decisions and communicate with suppliers of medical equipment during the pandemic.

155. A Freedom of Information Request was submitted on 09 February 2023 to the DHSC requesting if they held any emails, WhatsApp messages, and texts between Matt Hancock and/or his ministerial office and the following companies/individuals: Genix Healthcare, Dr Mustafa Mohammed (Owner of Genix Healthcare), or Ecolog International. The request also asked to provide a copy of all relevant correspondence as it relates to Covid-19 testing and procurement between 01 May 2020 to 30 October 2020.

PM/18a [INQ000507593]

PM/18b [INQ000507594]

PM/18c [INQ000507595]

PM/18d [INQ000507596]

PM/18e [INQ000507597]

156. On 31 March 2023, the DHSC provided a response and assigned the FOI request with the following reference: “FOI-1438211”. The department confirmed it held the information requested and attached the relevant emails and WhatsApp messages in PDF format. Some redactions were made to remove personal information. The disclosure raised a number of concerns over the access to ministers and the subsequent

⁷⁶ <https://www.theguardian.com/law/2022/mar/22/government-work-often-done-on-instant-messages-during-covid-says-top-official>

contractual arrangements that followed. To date, the contract at the centre of these discussions remains unpublished.

157. A major Conservative party donor named Mustafa Mohammed was able to communicate extensively with former Health Secretary Matt Hancock for an 11-month period between 11 June 2020 and 10 May 2021. The pair first exchanged WhatsApp messages on 11 June 2020. Mr Mohammed opened the WhatsApp exchange by saying, *“Hope you’re well my dear friend”* and then proceeded to pitch his proposals to the former Health Secretary. Mr Hancock replied to Mr Mohammed early the next morning by both WhatsApp message and email, thanking Mohammed before saying, *“I have asked my team to look into it and get back to you”*. A week later on 18 June 2020, Mr Mohammed messaged Mr Hancock again to say *“Thank you ever so much for your kind help. I am very much looking forward to seeing you very soon”*, within two hours Mr Hancock replies *“Excellent”*.
158. In September 2020, following Mr Mohammed’s lobbying, the DHSC, which was run by the Minister, issued Ecolog with a Letter of Intent to supply laboratory equipment and PCR testing for Covid-19, The contract was awarded to Ecolog via the priority lane established by the DHSC and UKHSA, but for unknown reasons, the government later decided to cancel the contract. This decision led to a £38.6m settlement fee being paid to Ecolog – a move that was branded a waste of taxpayers’ money by an NHS head of procurement.
159. At the time of writing this report, the contract or letter of intent between Ecolog and the DHSC has not been published, just the settlement agreement dated 22 March 2021. The last published WhatsApp message between Mr Mohammed and Mr Hancock was dated 01 May 2021 and was sent by Mr Mohammed, it read: *“Thank you ever so much my dear friend.”*
160. Further WhatsApp usage by Matt Hancock to discuss government business with suppliers of medical goods was also established via another Freedom of Information request issued to the DHSC on 11 March 2022, requesting similar information and timeframe to the above example, this time with Alexander Bourne and Matt Hancock.

PM/19a [INQ000507598]

PM/19b [INQ000507599]

161. The DHSC failed to provide a response to the Freedom of Information request despite repeated requests to do so. On 18 November 2022, a complaint was raised with the ICO requesting that the Commissioner intervene and review the handling of the request. The Commissioner wrote to the DHSC on 30 November 2022 requesting the DHSC to provide a *“substantive response to the complainant’s request within 10 working days”*. However, the DHSC failed to comply with this request.
162. On 20 January 2023, the ICO issued its formal decision notice to the DHSC. The notice was assigned the reference “IC-205074-W9B0”. The ICO ruled in favour of the claimant and ordered the DHSC to take the following step: *“DHSC must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court”*.
163. The ICO decision notice also stated: *“From the evidence provided to the Commissioner in this case, it is clear that DHSC did not deal with the request for information in accordance with FOIA. The Commissioner finds that DHSC has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.”*
164. The DHSC provided a copy of 63 WhatsApp messages between Mr Hancock and Mr Bourne within the date range of 04 April 2020 and 07 September 2020. The messages demonstrate Mr Bourne repeatedly lobbied Mr Hancock over multiple months, and in return Hancock provided Bourne with details of key officials to contact within his department. Furthermore, in one message sent in August 2020, Bourne asked for Hancock’s *“blessing”* and help to *“chivvy”* along a proposal to provide testing equipment, to which Hancock replied *“Yes. Go go go”*. The messages also show Hancock sharing personal contact details of senior civil servants with Bourne and offering advice on how to navigate the DHSC’s procurement process.

165. Mr Bourne's company, Hinpack, were named as a subcontractor in a £40m contract awarded by the DHSC during the pandemic to a company called Alpha Laboratories.⁷⁷

Transparency gaps relating to the disposal of unwanted PPE

166. Information obtained in response to a freedom of information request appears to demonstrate the DHSC is not recording the names of the PPE suppliers or the purchase price of the PPE stock before shipping the goods from its point of storage and out for destruction or recycling. The section covering the High-Priority-Lane explores the destruction and incineration of PPE in more detail. A freedom of information request was issued on 03 March 2023 to the DHSC **PM/22 [INQ000507605]** requesting information about a breakdown of PPE that had been destroyed to date, the suppliers of the PPE, the number of items disposed of, and the value of the PPE.

167. On 29 March 2023, the DHSC provided a response. The FOI request was assigned the following reference number by the department: "FOI-1441214". The DHSC said: "*We do hold some additional information relevant to your request, and some further context that we are providing on a discretionary basis and outside the scope of the FOIA, which is as follows:*

167.1 *We have previously placed information in the public domain, in parliamentary records, to say that 220,000 pallets of excess stock had been disposed up to the end of December 2022, through sales, donations, recycling and energy from waste.*

167.2 *DHSC does not hold information on the suppliers of PPE that is disposed of.*

167.3 *Questions about the number of items disposed of will be covered in the publication on 30 March.*

167.4 *We do not directly have an estimate of the purchase price for specific blocks of stock, including the block of stock that has been disposed of. It may be technically possible to calculate this figure, but this would require a new analysis relating purchase values with the specific product information for the items disposed. Although the publication on 30 March will not contain data on product values, releasing the*

⁷⁷ <https://goodlawproject.org/weve-won-another-freedom-of-information-battle-with-government/>

information would give an indication of the count of items and it is not possible to disclose this information without breaching the section 22 exemption outlined above. You may wish to submit a rephrased question after the published information is available, to request any additional information you require.

168. The DHSC published official statistics on PPE “Disposals, donations and sales” on 30 March 2023, one day after responding to the FOI request.⁷⁸ The data provided further clarity on the level of PPE disposals, notably:

168.1 *“In total, up to 28 February 2023, 269,500 pallets of PPE have been removed from stock. This equates to 3.14 billion items removed through a mixture of recycling, energy from waste (EFW) processes, donations and sales. (Energy from waste includes a small volume of material disposed of through waste incineration.)*

168.2 *Up to 28 February 2023 DHSC disposed of 251,500 pallets of PPE through recycling and energy from waste as part of its excess stock management process. This equates to 2.87 billion items of PPE. Of these disposals, 119,600 pallets were recycled (1.47 billion items) and 131,900 pallets were sent through EFW processes (1.40 billion items).”*

169. The DHSC also confirmed a further 6,100 pallets of PPE had been donated up to 31 December 2022, and a further 11,900 pallets of PPE had been sold via e-auctions up to 28 February 2023. On 30 March 2023, the DHSC also provided further clarity on its methodology relating to the collection of PPE data and confirmed in some instances, “estimates” were made on the number of PPE items on each pallet. Furthermore, the DHSC did not provide the names of the PPE suppliers or the price paid for the stock being disposed of.

Transparency concerns associated with the procurement of ventilators

170. The acquisition of additional ventilators became a UK Government priority in March 2020. Two routes were followed to increase ventilator numbers. The DHSC

⁷⁸ <https://www.gov.uk/government/statistics/ppe-disposals-donations-and-sales-up-to-28-february-2023/ppe-disposals-donations-and-sales-up-to-28-february-2023-england>

sought to buy ventilators on the worldwide market and the Cabinet Office issued a “ventilator challenge” to encourage UK manufacturers to design and build them. The two departments expended £569m across both programmes and secured over 30,000 additional devices by the end of June 2020. This proved to be more than was required, leaving a stockpile of additional ventilators available for future use.

171. In January 2023, the Good Law Project revealed that the government had still not published numerous contracts associated with the procurement of Ventilators. In total, 29 contracts valued at £248m remained unpublished in January 2023, contradicting various previous statements from elected officials.

172. On 11 January 2023, Good Law Project issued the Secretary of State for Health and Social Care, the Minister for the Cabinet Office and the Secretary of State for Defence with a Pre-action protocol letter requesting the missing contracts were published.⁷⁹ Three contract summaries were issued by Crown Commercial Services covering the 29 missing ventilator challenge contracts. The first contract summary on 27 May 2020 listed 14 contracts with a total value of £193m. The contracts were awarded to the following companies.

	Suppliers Name	Contract Value
1	Cambridge Consultants Limited	£7.7m
2	Sangentia Limited	£2.3m
3	Team Consulting Limited	£867k
4	TTP PLC	£6.2m
5	Unipart Logistics Limited	£715k
6	PA Consulting Services Limited	£1.5m
7	Cogent Technology Limited	£21.7m
8	Plexus Corp UK Ltd	£14.5m

⁷⁹ <https://goodlawproject.org/revealed-government-fails-again-to-publish-covid-contracts-worth-248m/>

9	Penlon Limited	£136m
10	Breas Medical Limited	£249k
11	Diamedica Limited	£53k
12	Inspiration Healthcare Limited	£600k
13	Oxford Optronic Limited	£137k
14	Mercedes High Performance and Drive Chains	£206k

173. The second contract summary, published on 27 August 2020, detailed a further 14 of the 29 contracts, with a total value of £51.9m. The contracts were awarded to the following companies.

	Suppliers Name	Contract Value
15	Smiths Medical International Limited	£25.5m
16	Smiths Medical International Limited	£1.7m
17	Darwood IP lit	£80k
18	Keymed (Medical & Industrial Equipment) Limited	£4.5m
19	Formula One Research, Engineering and Development Limited	£1m
20	Swagelok Bristol Fluid System Technologies Limited T/A Swagelok	£677k
21	T.J Smith and Nephew Limited	£6.6m
22	OES Medical Ltd	£712k
23	JFD	£237K
24	TTP PLC	£270K
25	Cambridge Consultants Ltd	£1.4m

26	Team Consulting Limited	£1.7m
27	BAE Systems Plc	£5.3m
28	Sangentia Limited	£1.8m

174. The Third contract summary, published on 11 January 2021, provided details of one of the 29 missing contracts. The contract was given to Sangentia Limited for a value of £3.6mn.

175. On 8 February 2023, the Government Legal Department responded to Good Law Project's pre-action protocol letter and confirmed it had breached its own transparency policy in what it called a "regrettable oversight." And committed to publishing the missing contracts by 28 February 2023.⁸⁰

176. Good Law Project noted a number of details, which they reported on 03 March 2023.

176.1 *"We have uncovered details of a new contract awarded by the Cabinet Office to a company called SameDay Plc to provide services that included the "destruction", "dismantling" and "recycling" of ventilators – further adding to the mountain of waste generated from the government's flagship ventilator programme".*

176.2 *"In total, £277m was spent by the Cabinet Office procuring ventilators during the pandemic with an eye-watering £143m going to waste."*

176.3 *"Government awarded a £1.2m contract to SameDay PLC for the "destruction" of unused ventilators and equipment.*

176.4 *SameDay PLC were handed the deal in May 2020, requiring them to access sites owned by Dyson, BAE systems, Babcock and others. The Cabinet Office contracted the firm to collect, recycle, dismantle and destroy unwanted ventilator components.*

176.5 *For the first time, the £6m contract awarded to TTP PLC, working in partnership with Dyson, has been published. The Dyson deal embroiled Boris Johnson and Rishi*

⁸⁰ <https://goodlawproject.org/we-won-government-commits-to-publishing-248m-missing-covid-contracts-after-breaching-transparency-guidelines/>

Sunak in a lobbying row after Johnson personally assured Sir James that Dyson employees wouldn't pay extra tax if they came to the UK to make ventilators.

176.6 *The Cabinet Office also agreed a £5m 'close down' deal with weapons manufacturer BAE systems.*

176.7 *The £105m contract awarded to Penlon to supply 10,000 ventilators has also been made public."*

177. The missing ventilator Challenge contracts were finally published - circa three years after the contracts were initially awarded and only after the threat of legal action by Good Law Project.

DHSC contract with Excalibur Healthcare to supply ventilators and the subsequent contract with Kuenhe and Nagel to auction the unused goods

178. A number of other concerns regarding the procurement of ventilators have been observed by members of the UKACC, notably a joint investigation by Good Law Project and the Mirror newspaper in January 2024 regarding the contract with Excalibur and the subsequent disposal of the unused ventilators discovered.⁸¹

179. In April 2020, Excalibur was awarded a contract by the DHSC to supply 2,700 VG-70 intensive care unit ventilators at a price higher than other suppliers during the same period. Excalibur were paid £50,000 per unit. The ventilators purchased from Excalibur were not used and the government decided to dispose of them via an auction site.

180. The DHSC signed a £300,000 contract with Kuenhe and Nagel in December 2023 for "*logistics, storage, handling and auctioning services*". The new contract specified auctioning off a large stock of unwanted medical supplies, including 3,068 unused Aeonmed VG-70 ventilators purchased from Excalibur. Good Law Project observed that the "*ventilators were passed on for quickfire sales to British Medical Auctions, and dozens have been listed on the company's site. Single units – which may have originally cost the*

⁸¹ <https://goodlawproject.org/government-sells-135m-worth-of-pandemic-ventilators-for-peanuts/>

taxpayer £50,000 – appeared with bids starting at just £100". Representing a potential loss to the taxpayer in the region of £134m (if the ventilators were sold at £100 each).

181. The DHSC said *the Government "identified and secured life-saving equipment at a time when there was huge global demand" and "We are now taking action to save taxpayers' money on storage costs by reducing the stockpiles of ICU equipment which are no longer necessary,"* a spokesperson explained, *"including by selling or donating excess equipment in the most cost-effective way."*

Former Prime Minister Boris Johnson's communications with potential ventilator manufacturers Dyson and JCB

182. Evidence previously published by the Inquiry appears to show former Prime Minister Boris Johnson in communication with the owners and/or directors of two companies, who were subsequently contracted by the Cabinet Office to work on the Ventilator Challenge Programme. The two companies were Dyson and JCB (Referred to as Bamford in the WhatsApp messages).⁸²⁸³

183. According to the dates of the WhatsApp messages disclosed by the inquiry - three days prior to the programme's launch, Boris Johnson had already *"talked to"* Dyson and Bamford about the government's manufacturing requirements. James Dyson is the founder of Dyson, a company famous for its vacuum cleaners that had previously donated £11,450 to Conservative Party MP Michelle Donelan. JCB, founded by the Bamford family in 1945, is a multinational company renowned for manufacturing construction equipment. The Bamford family have donated over £10 million to the Conservative party and pro-Brexit groups since 2002, including £600,000 in donations to Vote Leave Limited- the campaign group headed up by Boris Johnson in the build-up to the UK's referendum on its membership with the European Union.

⁸² INQ000102697_0003, 0019-0021, 0028 – Extracts of Jamie Njoku-Goodwin's WhatsApp messages from No/10 DHSC Covid 19 group, dated 28/02/2020 to 30/11/2021

⁸³ INQ000048399_0001-0003 – Extract of Dominic Cummings' WhatsApp messages from 'CSA-CMO-Matt-PM-Dom', dated 07/11/2020

184. Boris Johnson was in communication with the pair on 13 March 2020. In a WhatsApp discussion on ventilators, Boris Johnson told Dominic Cummings and Matt Hancock: *“We really need to respond and get our manufacturers going. This is clearly a nightmare for the Italians and it will be the same for us all too soon. Have talked to Dyson and Bamford today but we need an urgent number ten summit and maybe find someone to drive the effort. Matt? Gove?”*.
185. The PM also passed the telephone number of Steve Oldfield, the DHSC’s Chief Commercial Officer, onto Dyson and Bamford.
186. Three minutes after Boris Johnson's WhatsApp message, Dominic Cummings sent a WhatsApp message stating: *“Who is coordinating the effort with Dyson et al to build a crash programme for more respirators? This is incredibly urgent”*.
187. Within a few hours, Steve Oldfield had spoken to both Dyson and JCB representatives and the Cabinet Office commenced its contract with Dyson and the firm's designer for the project TTP PLC on the same day. JCB was to be subsequently subcontracted to provide the ventilator casings to Dyson.
188. A WhatsApp message from Matt Hancock dated 13 March 2020 relayed the message from Steve Oldfield and stated: *“...I’ve had calls from Dyson and JCB following the PM giving them my mobile number - they’ll do everything they can to help too.”*
189. By 26 March 2020, Dyson received an order to provide 10,000 of its newly designed CoVent hospital ventilators from the UK government, and reports suggest this order was “subject to the device passing stringent medical tests”.⁸⁴ However, by 24 April 2020, the government cancelled the contract *“due to reduced demand”*. James Dyson told the press he didn’t regret the decision to participate in the challenge and claimed, *“we have spent around £20m on this project to date, but we will not accept any public money”*.⁸⁵

⁸⁴ BBC News, 26 March 2020: Coronavirus: Government orders 10,000 ventilators from Dyson

⁸⁵ Forbes, April 2020: Billionaire James Dyson told thanks but no thanks – ventilator order spiked by government following reports of PR point scoring

190. On 15 April 2020 the Cabinet Office paid TTP Plc (Dyson's partner in the challenge) £4.44 million despite zero ventilators being provided to the NHS. The full extent of the communications and meetings between the former PM and representatives from Dyson and JCB remains unclear, furthermore, the calls do not have been registered in the PM's ministerial meeting transparency reports covering the same period in 2020.⁸⁶

Reasons given by UK Government bodies and departments for the refusal to provide information

191. As part of this statement, we were asked to set out the UK Government's reasons for refusal to provide information in some cases, many outlined above. The following organisations refused to give the requested copies of contracts or information or agreed to publish contracts but failed to do so.

- 191.1 Department of Transport;
- 191.2 Guy's and St Thomas' NHS Foundation Trust;
- 191.3 NHS England;
- 191.4 Royal Free Hospital;
- 191.5 Supply Chain Coordination Limited.

192. The reasons given for not providing information, copies of contracts or publishing them on Contracts Finder were one or more of the following:

- 192.1 commercial confidentiality;
- 192.2 the cost of retrieving the information or documents requested exceeded that set out in the Freedom of Information Act;
- 192.3 The information is not easily accessible because it is stored on an electronic procurement system that is no longer used by the contracting authority.
- 192.4 Guy's and St Thomas' NHS Foundation Trust said, "*all the contracts were awarded under the Standard NHS Purchase Order Terms and Conditions of Contract, which are the ones uploaded onto Contracts Finder. There are no "personalised" contracts for this.*"
- 192.5 The Royal Free Hospital NHS Foundation Trust said, "*the trust does not hold any recorded information as to why contracts have not been published.*"

⁸⁶ Cabinet Office: ministerial gifts, hospitality, travel and meetings, January to March 2020

192.6 FOI requests relating to the PPE Medpro contracts were refused. The government used section 23(1) of the FOIA, which “*exempts information that was supplied by, or relates to, one of the security bodies listed under section 23930 of the Act*”. We understand this is in relation to the ongoing NCA investigation.

192.7 Further requests for information were also withheld under section 40(2) of the FOIA. Which, according to the department, provides the “*protection of personal information*” and “*prohibits*” a public body from disclosing the information requested

192.8 The DHSC refused to release details of meetings attended by Baroness Dido Harding, citing Section 14(1) of the FOIA, claiming this request was vexatious due to its burdensome nature.

192.9 Section 31.1.G and 31.2.b and 31.2.c of the FOIA - “*because its disclosure would, or would likely to prejudice the administration of justice of a public inquiry (namely the UK Covid-19 Inquiry)*” The Cabinet Office further added “*To address your view that the information you request is of high public interest, we believe that the UK Covid-19 Inquiry is actively considering the material on this topic which will be examined and disclosed during the Module 5 public hearings.*”

The work undertaken by UKACC and its members by way of checking that contracts for PPE and other key healthcare equipment and supplies were published, along with contract award notices.

193. A brief review of data published by the Government on Contracts Finder strongly suggested that statements about the accurate publication of contracts were untrue. An investigation into unpublished contract documents by Chris Smith began in January 2023. The following search terms were used to identify Covid-19 related Contract Award Notices published by Contracting Authorities on Contracts Finder:⁸⁷ *Covid-19, Covid19, Coronavirus, SARS-CoV-2, Novel Coronavirus, Mask, Apron, Gown, 2019-nCoV, Corona Virus, Pandemic, Personal Protective Equipment, PPE, Visor.*

⁸⁷ Contracts Finder UK website <https://www.gov.uk/contracts-finder>

194. The results of the searches were downloaded, and analysis was done on the open government data to identify a red flag where a contract document had not been published using the following two Contracts Finder data fields: *Attachments, Links*.
195. This analysis provided a list of Covid-19 related contracts for which contract documents had yet to be published. The data was used to support Freedom of Information requests for information and copies of contract documents. This data was also analysed to identify a second red flag concerning unlawful delays in the publication of Contract Award Notices on Contracts Finder between the contract issue date and the date of the Contract Award Notice.
196. The late publication of some Contract Award notices for up to a year on Contracts Finder inevitably resulted in the late publication of contract documents, which not only reduced transparency and accountability but was in breach of the government policy, which required in-scope organisations to publish contract documents when publishing a Contract Award Notice (see Crown Commercial Services Publication of Central Government Tenders and Contracts Central Government transparency Guidance Note Updated November 2017). This publication was withdrawn on 21 June 2021. It also breached the UK's treaty obligations under the WTO (World Trade Organisation) Agreement on Government Procurement (GPA) to also publish contract award notices on TED (tenders electronic daily) Supplement to the Official Journal of the EU.

Estimates for the number of contracts for PPE that remain unpublished

197. Using data published by contracting authorities on Contracts Finder, we estimate that the total number of unpublished contract documents and/or contract award notices for PPE is as follows.

Body	Number of unpublished PPE contract documents	Declared value of unpublished PPE contract documents	Comment
Collaborative Procurement Partnership LLP, acting on behalf of Supply Chain Co-ordination Ltd, and NHS Supply Chain Ltd, acting on behalf of DHSC	9,492	£4.8 bn	59 Contract Award notices were published on Contracts Finder and Ted (tenders electronic daily) Supplement to the Official Journal of the EU over 1 year after the contracts were issued. PM/02 [INQ000507573] PM/25 [INQ000507610] PM/26 [INQ000507611]
Royal Free Hospital	4	£10.5 million	Contract Award Notices have never been published for these contracts. PM/27 [INQ000507612]
Guy's and St Thomas' NHS Foundation Trust	9	£28.5 million	PM/28 [INQ000507618]
DHSC contract with Ecolog International (UK) Limited	1	>£38.4 million	Only the settlement agreement between Ecolog and DHSC has been published. The initial contract dated 04 September 2020 and a further variation contract dated 06 January 2021 remain unpublished. PM/29a [INQ000507619] PM/29b [INQ000507620]
Home Office	4	£4 million	While most of the contracts referred to in an FOI request were subsequently published, 4 contracts remain unpublished. PM/30 [INQ000507621]
NHS Trusts and other bodies e.g. local councils	213 approx.	£250 million	Publication of contract documents is optional, not mandatory.

Body	Number of unpublished PPE contract documents	Declared value of unpublished PPE contract documents	Comment
Total	9,723	£5,131,400,000	

Authority responses for requests for copies of the unpublished contracts to UKACC and members

198. In most cases where contracting authorities have responded to requests for copies of contracts, they publish them on Contracts Finder, but the full contract document has not been published. There is a widespread problem concerning the publication of Covid-19 related contracts generally, as they are often only partially published and also heavily redacted. In the case of DHSC, the published contracts normally omit important sections of the contract and often the specification of the items covered under the contract.

199. An example of an incomplete DHSC contract published is one for 3 Ply Medical mask – Type IIR worth £80,850,000 on Contracts Finder **PM/31 [INQ000507622]**, which omits the following key parts of the contract document:

- 199.1 *Schedule 2 - General Terms and Conditions*
- 199.2 *Schedule 3 - Definitions and Interpretations*
- 199.3 *Schedule 4 - Additional Special Conditions*
- 199.4 *Annex 1 - Essential Technical Specifications*
- 199.5 *Annex 2 - Compliance Pack*
- 199.6 *Appendix 1 - NPC Supplier Information Form*
- 199.7 *Appendix 2 - Vendor Manual*
- 199.8 *Appendix 3 - Template Packing List*

200. These omissions breach the Cabinet Office guidance Publication of Central Government Tenders and Contracts Central Government Transparency Guidance Note

published on 1st March 2017 and withdrawn on 24 June 2021.⁸⁸ Section 5 on page 10 which is repeated below:

201. *“5. INFORMATION THAT CONSTITUTES A CONTRACT. 5.1 You are expected to publish contracts in full. For the purpose of this requirement, as a minimum, this must include the following (where relevant): **Specification [emphasis added] Terms and Conditions (Ts&Cs) [emphasis added] Associated Schedules (which may include the winning tenderer’s bid) [emphasis added]**. Where contract specifications or associated schedules contain various diagrams (for example, in some construction contracts), you should publish these where practical (taking into account the any necessary exemptions as set out in section 6) and where the diagrams are already in an electronic format that is likely to be accessible to the This publication was public (e.g. word or pdf).”*

202. The obligation to publish contracts documents continued under PPN 07/21: Update to Legal and Policy requirements to publish procurement information on Contracts Finder, which came into effect on 24 June 2021.⁸⁹

The High Priority Lane (HPL)

203. **Section Summary:** As part of our statement, we were asked to provide material about the High Priority Lane (“HPL”), which the UKACC and/or its members have obtained. We provide analysis on the operation of the HPL both for PPE and NHS Test and Trace. We also cover the incineration, destruction, and wastage of supplies routed via the HPL and identify various case studies. Our statistics and information demonstrate

⁸⁸ Publication of Central Government Tenders and Contracts Central Government transparency Guidance Note Updated November 2017
https://assets.publishing.service.gov.uk/media/60d337818fa8f57cf3f0b400/Withdrawn_Guidance_Publication_of_New_Central_Government_Tender_documents_and_Contracts_2017__1__1_.pdf

⁸⁹ Procurement Policy Note 07/21: Update to Legal and Policy requirements to publish procurement information on Contracts Finder <https://www.gov.uk/government/publications/procurement-policy-note-0721-update-to-legal-and-policy-requirements-to-publish-procurement-information-on-contracts-finder>

how politically connected individuals and companies, including political donors, were able to secure prized government contracts behind closed doors and away from public view – often without even providing legitimate services.

204. We want to draw particular attention to the fact that such a system - to respond to a pressing emergency - had to be uncovered by investigative journalists and that DHSC initially denied that such a system existed. We think it is of paramount importance that the Inquiry fully establish the details on and accountability for the HPL Lane and the massive subsequent misspending and misallocation of effort that ensued. It is also important to understand what if any, expert procurement and legal advice the government took in pursuing this approach, given it was clearly unlawful.

Overview of HPL and PPE

205. By November 2021, the DHSC had received into the UK 31.5 billion of PPE from its expected total of 37.9 billion items, and a substantial number had been assessed as not suitable for clinical use or had failed quality checks (some 3.6 billion items purchased for £2.9 billion, equivalent to 11% of all PPE received were unsuitable for front-line services).

206. There were three main routes of supply.

206.1 The existing NHS Supply Chain Coordination Limited which had been created in 2018 to source healthcare products for the NHS. Most contracts, some 9,492, were awarded through this existing route, costing £5.2bn (39.7% of the overall cost).

206.2 A Parallel Supply Chain, announced by the DHSC in April 2020, to source products from elsewhere to supplement the existing route. 357 contracts were awarded through this route, costing £6.9bn (52.7% of the overall cost).

206.3 A new UK Make route, established in April 2020, to purchase PPE from UK-based manufacturers. 37 contracts were agreed upon for £1.1bn (8.4% of the overall cost).

207. In the search for new supply routes, the government received 24,000 offers from 15,000 businesses within a 14-week period in response to a Call to Industry. At the peak, over 400 officials and external consultants were deployed to process offers of PPE,

divided into workstreams; for instance, UK Make or China buy.⁹⁰ Some 493 of the 24,000 offers were directed through the HPL.

208. On 01 April 2020, the DHSC announced to the public the creation of the “Parallel Supply Chain”, a new flagship programme that would drastically ramp up the purchasing and supply of PPE. In the weeks leading up to the announcement, DHSC officials - working alongside the consultancy firm McKinsey - had been analysing the likely volume of PPE needed by the government to tackle the pandemic. The global market for PPE had become increasingly more volatile as other countries increased their efforts to secure supplies. It had been concluded the current stockpiles and the reliance on ‘just in time’ orders could not possibly keep up with the demand.

209. The Parallel Supply Chain (PSC) was given five main objectives: Plan, Source, Make, Order, Deliver.

209.1 Plan: using data models generated by the DHSC and NHS, civil servants needed to plan and prioritise demand for PPE.

209.2 Source: DHSC, working alongside the Ministry of Defence and Cabinet Office, needed to source the vast quantity of PPE needed to meet demand. This was split into three categories - existing supplies managed by the SCCL, suppliers based in China, and new suppliers, which covered companies that offered PPE to the government via its newly established online portal.

209.3 Make: The government would encourage existing UK-based manufacturers to repurpose their production lines to make PPE.

209.4 Order. The DHSC and SCCL would order, authorise, and pay for the PPE.

209.5 Deliver: PPE would be stored, managed, and delivered to NHS trusts and Local Resilience Forums.

210. The PSC was a huge undertaking that required circa 450 staff to manage the process. Civil servants from DHSC were drafted in to help, alongside colleagues from other government departments and private sector consultants. Prime Minister Boris

⁹⁰ DHSC (17 November 2021) PPE procurement in the early pandemic

Johnson hired Conservative party Peer Lord Paul Deighton to lead the newly formed PPE programme.

211. The government had intended to purchase enough PPE to last four months, but instead, in a frenzied market, it procured enough volume to last five years. The government's order book included the purchase of 7.5 bn face masks at a cost of £4.2 bn, 14.5 bn gloves at a cost of £1.6bn, 1.5 bn 'eye protectors' at a cost of £2.5bn and 700 million gowns at a cost of £2.4bn.

212. In total, the DHSC awarded 394 contracts to new suppliers, and it had a legal duty to publish the contracts online within one month of making the award. When health officials did eventually start drip feeding the contracts into the public domain, almost immediately claims of cronyism and corruption soon followed.

213. A pattern quickly began to emerge - companies with no history of supplying PPE to the NHS were suddenly being rewarded with multi-million pound contracts. Under close inspection, the same firms would often have conflicting links back to the Conservative Party. It wasn't until October 2020, when sensitive government documents were leaked to the Good Law Project, depicted a special pathway, a secretive procurement channel that designated certain suppliers as "VIPs". The leaked files also stated in bold text, "*high profile contacts, require a rapid response*". Another document requested civil servants provide the so-called VIP's an "*expedited response*".⁹¹ Pressure forced the government to admit the existence of a 'VIP lane' (officially named the High Priority Lane), with highly critical investigations into government procurement coming shortly afterwards.

214. In late March 2020, The HPL was embedded within the Parallel Supply Chain programme led by Lord Deighton. A dedicated email mailbox was created and a team of civil servants, led by Max Cairnduff, were seconded into the team to focus entirely on the offers being funnelled into the newly established mailbox. Cairnduff shared details of the confidential email address with government ministers and senior officials. Recipients of Cairnduff's 06 April 2020 email included the ministerial offices of Lord Bethell, Michael

⁹¹ <https://goodlawproject.org/special-procurement-channels/>

Gove, Lord Agnew, Jo Churchill and Esther McVey. Cairnduff explained in his email to ministers that “the vast majority” of PPE offers should be directed to the government's public-facing online portal, before then revealing a priority route for ministerial recommendations. Cairnduff said, *“If a PPE offer is a personnel recommendation from or contact of a minister or senior official (which if it comes to you it often will be) please direct it to this email address”*. From the outset, companies without the support of a Minister were disadvantaged.

215. Of the 394 contracts awarded through the Parallel Supply Chain and UK Make route, 115 (29%) were awarded to 51 suppliers through the HPL. These contracts cost £3.8bn (29% of the overall PPE contract cost) to supply 7.8 bn items of PPE (20.6% of the overall PPE supplied). The DHSC issued an eight-stage due diligence process in May 2020, but 46 of the 115 contracts issued to HPL applicants were awarded before the introduction of the eight-stage process. The DHSC was not, therefore, able to fully understand the contract management risks associated with these suppliers. An additional risk arose from the competitive global demand for PPE, which meant that the DHSC decided to make 298 advance and unsecured payments to suppliers amounting to £2.5bn, sometimes for 50% of the contract value. A report said that the government Counter Fraud Function issued advice in May 2020 to avoid upfront payments, and that 52 (17%) upfront payments were made to new suppliers who secured contracts after that advice was issued.

216. Of the PPE items identified as unsuitable for front-line services, 64% were procured through the Parallel Supply Chain and UK Make. Analysis found that 53% of HPL suppliers provided some PPE items classified as ‘not suitable’. 25% of HPL suppliers provided PPE that was “wastage”.

217. The HPL remained in operation until the end of June 2020 - officials received offers from 493 different suppliers. 208 of these leads came via the offices of Ministers, Peers, or MPs. The government failed to record the source of 250 HPL referrals. Ultimately, for every ten companies channelled down the high-priority route, one would be awarded a contract from the DHSC. At first glance, a conversion rate of 10% sounds underwhelming until you compare the results with suppliers trying to bid for PPE through the publicly advertised procurement portal. Here the government received offers from 14,892

companies, but only 104 of these companies succeeded in landing a contract. A conversion rate closer to 1%.

218. Good Law Project (GLP) raised concerns over the lawfulness of the HPL and the apparent. In Spring 2021, Good Law Project (GLP) were granted permission to bring a legal challenge against the Secretary of State for Health and Social Care. GLP argued the *“operation of a secret “vip lane”, whereby suppliers who had been referred by Ministers MPs and senior officials were afforded more favourable treatment, significantly increasing their prospects of being awarded a contract or contract”* was unlawful. On 18 May 2021, the High Court hearing began, and documents covering the PPE procurement period were subsequently disclosed.

219. Multiple examples of civil servants flagging concerns over the HPL process were uncovered within days of the HPL being established. The volume of referrals from Ministers, Peers and MPs became problematic. An email exchange between civil servants on 14 April 2020 claimed officials were *“drowning in VIP requests”*. The full exchange reads: *“This contact has already been allocated a team member - unfortunately if he jumps to the front of the queue, it then has a knock on effect to the remaining offers of help. We are currently drowning in VIP requests and ‘High Priority’ contacts that despite all of our work and best efforts do not either hold the correct certification or do not pass due diligence”*.⁹² Another email exchanged between officials on 29 April 2020 discussing “VIP work” claims HPL enquiries *“do not always align with priorities in terms of PPE items and volumes but the resultant impact of pressure from ministers’ can become more of a distraction from the substantive priorities”*.⁹³ By the end of April 2020, civil servants within the PPE procurement cells were being advised to “reduce” the number of cases they assign themselves from companies channelled through “standard” routes to allow more time for HPL cases. The civil servant noted that *“VIP cases require about three times the time of a standard case”*.⁹⁴

⁹² <https://goodlawproject.org/ppe-urgent-hearing/>

⁹³ <https://x.com/RussellScott1/status/1398951453792915456>

⁹⁴ <https://x.com/GoodLawProject/status/1387736470098690051>

220. NHS officials also expressed some concerns. On 20 April 2020, the NHS published its daily "Programme Management Update" the report marked "official sensitive" provided a daily update on PPE procurement. The report stated, "*VIP escalation is obstructing progress of more viable opportunities for larger/scalable manufacturers*" and "*VIP escalation is consuming bandwidth for progressing viable opportunities with larger/scalable manufacturers*" **PM/32a [INQ000507623]** and **PM/32b [INQ000507572]**. The earlier 'transparency' section of this report provides further details on NHS England's daily PMO reports. The reports also highlight a number of further "Risks" and concerns raised during the daily meetings.

28 March 2020: "Supply chain have run out of stock on gowns. Trust have been complaining about the shortage to HSJ".

28 March 2020: "Need senior oversight of strategic decisions taken that got us here".

31 March 2020: "Concern: Cannibalisation of supply"

31 March 2020: "Lack of forward view on spend, which will delay approval process with HMT".

31 March 2020: "Delay in regulatory approvals will severely impact ability to initiate novel manufacturing of critical UK based PPE"

02 April 2020: "Inability to confirm standard of masks to delay manufacturing & ordering".

02 April 2020: "Lack of clarity of regulatory approval processes is preventing ability to on-board new suppliers of PPE".

02 April 2020: "Limited supply of certain key raw materials of PPE This is at risk of being procured [by] other countries leaving UK with no available options".

02 April 2020: "Novel Manufacturers are starting to provide critical PPE to NHS hospitals without regulatory approval e.g Royal Mint visors"

03 April 2020: "Inability to fulfil hand sanitiser and PPE requests for Nightingale hospitals due to unclear regulatory approval processes."

03 April 2020: *“the demand signal is growing and remains unclear which risks our ability to distribute accurately”.*

04 April 2020: *“No process to distribute 1.9m donations in UK Quarantine (Daventry).”*

04 April 2020: *“70 orders stuck in closing (1.2bn items).”*

04 April 2020: *“Technical approval process is fragmented and undefined”*

05 April 2020: *“Unclear R&Rs at leads level”*

07 April 2020: *“T&C’s not being confirmed causing delays in securing supply (China)”*

08 April 2020: *“drumbeat of governance required to provide decisions on non-standard contracts, e.g China (SLA required).”*

08 April 2020: *“Delay or cancellation of manufacturers due to raised concerns with existing T&C’s and no clarity on who is conducting financial due diligence”*

10 April 2020: *“PO’s for critical novel manufacturers being blocked - lack of agreement re price”*

11 April 2020: *“Technical triage - problematic bottleneck”*

02 May 2020: *“Resource focus to meet parliamentary pressure”*

221. In January 2022, the High Court ruled the High-Priority lane was *“unlawful”*. The court found that the operation of a high-priority lane was *“in breach of the obligation of equal treatment”* and *“the illegality is marked by the judgement”*. The Judge also said, *“there is evidence that opportunities were treated as high priority even where there were no objectively justifiable grounds for expediting the offer”* and that officials designated suppliers as VIPs on a *“flawed basis”*.

HPL suppliers and referrers

222. On 18 November 2020, Transparency International UK (TI-UK) submitted an FOI request to the DHSC asking for details on the operation of the VIP lane for PPE, including:

222.1 *The names of the companies referred*

222.2 *The source of the referral*

- 222.3 *The decision for the referral [i.e. accepted or rejected]*
222.4 *The status of the referral [i.e. delivered, cancelled and in-progress]*

223. On 16 December 2020, the DHSC responded by saying it was rejecting the request on cost grounds **PM/33 [INQ000507624]**. On the same day, TI-UK submitted a narrower request, just asking for the names of those suppliers referred through the VIP lane for PPE. On 12 January 2021, TI-UK submitted a follow-up response to inform the DHSC that their response was beyond the statutory deadline and requested an estimated response date.

224. On 18 January 2021, Russell Scott, working on behalf of Good Law Project, submitted multiple FOI requests to the DHSC, Cabinet Office and the NAO requesting details of the suppliers who were awarded PPE contracts via the HPL. On the same day, the DHSC responded to TI-UK's request claiming it needed more time to consider the public interest in disclosure under Section 43 of the FOI Act (commercial sensitivity).⁹⁵

225. On 14 April 2021, the DHSC eventually replied to both Russell Scott and TI-UK, refusing their requests on the grounds that disclosing the information would "prejudice the commercial interest" of the companies involved.⁹⁶ A decision that was appealed by both. The last correspondence TI-UK received from the DHSC regarding their request was on 24 June 2021, when the department claimed it was still undertaking an internal review - a review that appears never to have concluded.⁹⁷ On 7 September 2021,, the DHSC finally provided a response to Russell Scott - it withdrew its previous objection and advised that the names of the HPL suppliers would be "published in due course" but failed to provide a publication date - unsatisfied by the response a complaint was issued to the Information Commissioner's Office (ICO).

226. On 18 October 2021, the ICO issued its decision notice and ordered the DHSC to disclose the information - if the DHSC didn't comply with the ICO decision, it could be

⁹⁵ https://www.whatdotheyknow.com/request/high_priority_lane_referrals_for#incoming-1707280

⁹⁶ https://www.whatdotheyknow.com/request/high_priority_lane_referrals_for#incoming-1768841

⁹⁷ https://www.whatdotheyknow.com/request/high_priority_lane_referrals_for#incoming-1819658

found in “*contempt of court*”. On 16 November 2021, the DHSC finally published the names of the companies referred to the HPL, along with the names of the officials and politicians who provided the crucial referral.⁹⁸

227. The data released by the DHSC revealed a number of concerning facts. £1.6 bn worth of contracts were awarded as a result of referrals from just ten senior Conservative party politicians. Furthermore, it was only ministers, MPs, and peers affiliated to the Conservative Party that were able to refer successful bids - no referral from MP’s or peers from the Labour Party, Liberal Democrats, Scottish National Party, or any other political party succeeded. In total, 15 Conservative party politicians were named - Dr Julian Lewis MP, Penny Mordaunt MP, Andrew Percy MP, Matt Hancock MP, Steve Brine MP, Esther McVey MP, Grant Shapps MP, Dominic Cummings, Michael Gove MP, Lord Leigh, Lord Feldman, Baroness Mone, Lord Agnew, Lord Leigh and Lord Deighton.

Supplier	Source of referral	Actual referrer
Aiya Technology	GCF COVID-19 Enquiries mailbox, Cabinet Office	DHSC PPE Buy Cell
Aventis Solutions Ltd	NHS E&I	Office of Dr Emily Lawson, DHSC
Ayanda Capital Ltd	NHS Shared Business Services	Darren Blackburn, Cabinet Office
Blueleaf Ltd	Keith Lincoln NHS E&I	GCF COVID-19 Enquiries mailbox, Cabinet Office

⁹⁸ <https://goodlawproject.org/conservative-politicians-vip-lane/>

Supplier	Source of referral	Actual referrer
Brandology Ltd	Dr Julian Lewis MP	Office of Penny Mordaunt MP
Cargo Services Far East Ltd	Andrew Percy MP	Matt Hancock MP
CCS McLays Ltd	Steve Brine MP	DHSC Special Adviser
Community Pharma Co Ltd	Office of Esther McVey MP	Office of Esther McVey MP
Crisp Websites Ltd trading as Pestfix	Office of Steve Oldfield, DHSC	Nick Dawson, NHS E&I
Euthenia Investments Ltd	Office of Lord Agnew	Office of Lord Agnew
Excalibur Healthcare	Matt Hancock MP	Jonathan Marron, DHSC
Eyespace Eyewear	Grant Shapps MP	Not available
GBUK Ltd	Preeya Bailie, NHS E&I	Not available
Global United Trading	Dominic Cummings	Steve Oldfield, DHSC
Headwind Industrial (China) Ltd	Ljupsco Mihailovszki, DIT Budapest	Ljupsco Mihailovszki, DIT Budapest
Hotel Logistics Ltd	SCCL	Not available
Ideal Medical Solutions Ltd	SCCL	Not available
Invisio Ltd	SCCL	PPE Buy Team
JD.COM	Matt Hancock MP	Jonathan Marron, DHSC

Supplier	Source of referral	Actual referrer
KPM Marine Ltd	Office of Dr Emily Lawson, DHSC	Office of Dr Emily Lawson, DHSC
Liaoning Zhongquiao Overseas Exchange Co Ltd	Office of Chancellor of the Duchy of Lancaster	Office of Chancellor of the Duchy of Lancaster
Mazima Markets Ltd	Lord Leigh	Lord Feldman
Mayfair Global	Michael Urwick, Hinduja Foundation	Direct approach
MDS Healthcare Ltd	Referred because the supplier managed a PPE donation made by a third party	Not available
Medicom Healthcare Holding	David Reed, FCDO	GCF COVID-19 Enquiries mailbox, Cabinet Office
Meller Design Ltd	Office of Chancellor of the Duchy of Lancaster	Office of the Government Chief Commercial Officer
MGP Advisory Ltd	GCF Commercial Policy Team	GCF COVID-19 Enquiries mailbox, Cabinet Office
Monarch Acoustics Ltd	Matt Hancock MP	Matt Hancock MP
New Asia Logistic Service PTE Ltd	Dr Andrew Swift	Office of the National Medical Director

Supplier	Source of referral	Actual referrer
Nine United Ltd	Matt Hancock MP	Jonathan Marron, DHSC
NKD International Ltd	Dame Donna Kinnair, RCN	Jonathan Marron, DHSC
P14 Medical Ltd trading as Platform 14	Dr Ian Campbell, Innovate UK	Richard James, Cabinet Office
P1F Ltd	Chris Dunn, FCO	Chris Dunn, FCO
Pakan Medical	Christine Emmett, Former HS2 NED	Janette Gibbs, Cabinet Office
PPE Medpro Ltd	Baroness Mone	Office of Lord Agnew
Regal Polythene Ltd trading as Regal Disposables	Chris Hall, Cabinet Office	Chris Hall, Cabinet Office
Rehear Labs Ltd	SCCL	Not available
Sanaclis	SCCL	Andy Wood, Cabinet Office
SG Recruitment UK Ltd	Lord Chadlington	Lord Feldman
Skinnydip Ltd	Lord Leigh	Lord Feldman
Summit Medical Ltd	SCCL	Direct approach
The Paper Drinking Straw Ltd	Stuart Marks	Chris Hall, Cabinet Office

Supplier	Source of referral	Actual referrer
Tower Supplies	Pia Larsen, NHS	Richard James, Cabinet Office
Uniserve Ltd	Lord Agnew	Jonathan Arrowsmith, Cabinet Office
Unispace	GCF COVID-19 Enquiries mailbox, Cabinet Office	GCF COVID-19 Enquiries mailbox, Cabinet Office
Universal Solutions Trading Ltd	HMT Special Advisor	DHSC Special Advisor
Urathon Europe Ltd	Jane Harrison, SCCL	DHSC PPE Buying Cell
Visage Ltd	COVID-19 Single Point of Contact mailbox, DHSC	COVID-19 Single Point of Contact mailbox, DHSC
Worldlink Resource	Lord Agnew	Office of Lord Agnew
Wuhan Xiaoyaoyao Pharmaceutical	Office of Lord Deighton	Office of Lord Deighton

228. We have noticed a number of inconsistencies with the official number of “VIPs” declared in government reporting. For example, A September 2020 GIAA report commissioned by the Cabinet Office stated, “450 companies came through the high priority mailbox, of which 45 were awarded contracts” **PM/39 [INQ000507634]**. In November 2020, the DHSC claimed that there were 493 companies processed through the HPL, with 47 firms eventually winning PPE contracts. In November 2021, the

government revised the official numbers again, claiming 50 suppliers were successful, before increasing the total number for the fourth time to 51 suppliers a few months later.⁹⁹

229. In early 2022, GLP published data suggesting the number of suppliers awarded contracts via the HPL could be as high as 68 suppliers - a number denied by government officials.¹⁰⁰ There is also email evidence to suggest civil servants disagreed with the stats regarding the scale of the HPL, suggesting the scale of the HPL was a bigger operation than initial reports indicated.¹⁰¹

Missing data about the HPL

230. We believe the inquiry should investigate issues relating to the following points. The published list of HPL PPE suppliers and referrers contains a number of missing facts.

231. The “Actual referrer” is not named for the following suppliers: Eyespace Eyewear, GBUK Ltd, Hotel Logistics, Ideal Medical Solutions, MDS Healthcare and Rehear Labs Ltd. Instead, the DHSC has included the tag “Not Available”.

232. A further two suppliers (Mayfair Global and Summit Medical Ltd) have been assigned the tag “Direct approach”, yet it's unclear how these suppliers were able to “directly” approach the HPL team when its very existence was not public knowledge at that point in time.

233. The supplier CCS McLays Ltd was referred by Steve Brine MP to an unnamed “DHSC Special Advisor”. Similarly, Universal Solutions Trading Ltd was identified by a “HMT Special Advisor” and referred by a “DHSC Special Advisor” - these advisors have not been named, and the identity of the ministers they worked for has also not been published.

⁹⁹ <https://www.gov.uk/government/news/ppe-procurement-in-the-early-pandemic>

¹⁰⁰ <https://goodlawproject.org/ministers-have-misled-parliament/>

¹⁰¹ <https://goodlawproject.org/leak-government-hid-vip-data/>

234. The supplier Technicare Ltd was referred by the “Cabinet Office Correspondence Team” - it is unclear who or what this team is/was.
235. MDS Healthcare were initially referred to the high-priority lane because they managed a PPE donation made by a “third party” - that third party has not been named.
236. The “source of “referral” and “actual referrer” of Visage Ltd is described as “Covid-19 Single point of Contact mailbox, DHSC”. It is unclear what this “mailbox” is and how the Visage offer was selected from the mailbox and moved into the HPL.
237. PPE Medpro was referred to Lord Agnew by Baroness Mone. However, because of the ongoing NCA investigation, most of the communication between Mone, Agnew and other ministers such as Michael Gove and Matt Hancock remains unpublished.
238. The PPE supplier Luxe Lifestyle Limited has been referred to as a “VIP” supplier by officials but is not included on the government-published list. The company was initially referred to the DHSC following an intervention from former minister Greg Hands.¹⁰²
239. The cross-government PPE team established a high-priority lane to assess and process PPE leads given to them by government officials, ministers’ offices, MPs and members of the House of Lords, senior NHS staff and other health professionals. A total of 493 suppliers came through this lane, of which 47 were awarded contracts. Fewer than 250 sources for these leads were recorded: 144 leads came from the private offices of ministers, including referrals from MPs who had gone to ministers with a possible manufacturer in their constituency and where private individuals had written to the minister or the private office with offers of help; 64 leads were direct from MPs or members of the House of Lords not in government; 21 leads were from officials, such as a Department of International Trade network that was looking for sources worldwide, and the private office of the Permanent Secretary of the Department of Health & Social Care; and three leads were from other identified sources that did not fall into the categories above.

¹⁰² The Guardian (February 2023) Firm won £25.8m PPE contract after Greg Hands approached by Tory activist

240. A freedom of information request was sent to DHSC and Cabinet Office on 2 March 2022 requesting the names of the ministers' offices and MPs that provided the 144 leads referred to above, along with the name of the supplier they were referring and also the names of the members of the House of Lords that provided a further 64 leads referred to above, along with the name of the supplier they were referring. The DHSC rejected the request on the grounds that releasing the information would “*prejudice the commercial interests of any entity, including the public authority holding the information*” and section 43(2) of the act. The Cabinet Office rejected the request on costs grounds under section 12 of the FOIA. **PM/34a [INQ000507625] and PM/34b [INQ000507626]** We, therefore, do not know the names of the politicians who referred at least 208 suppliers to the HPL.

Due diligence and 'eight stage process'

241. Despite a number of reassurances from government ministers during the pandemic, many PPE suppliers, including those referred to the HPL, were not subject to the government's eight-stage due diligence process prior to being awarded contracts to supply PPE.

The cross-government PPE team established an eight-stage process



Source: National Audit Office analysis of documents provided by, and interviews with, the Department of Health & Social Care

(category 4)

242. An investigation into PPE procurement concluded the DHSC was not in a position to fully understand the contract management risks it was exposing itself to. It found that

there were no criteria for referral to the high-priority lane and the source of the referral was not always recorded. Of the 493 suppliers who came through the high-priority lane, fewer than 250 sources for these leads were recorded.

243. Further Due-diligence concerns were raised in the judgement handed down by the high court in the judicial review brought by the Good Law Project. Para 213 and 214 of the judgement discussed concerns raised by “DHSC finance” and NatWest Bank regarding payments to PPE suppliers and, in particular, a company called Ayanda Capital, a supplier who was awarded two high-value PPE contracts via the HPL. The judgement stated:

243.1 *“Over recent days DHSC Finance has become increasingly concerned regarding the adequacy of the supplier due diligence process embedded within the Personal protective equipment (PPE) buying stream. We meet regularly (at least weekly) with our colleagues from Government Banking Services (GBS), RBS and NatWest and they are similarly concerned. Over recent days, and in particular over the last 24 hours, a number of approved payments have been stopped by the bank who believe there is evidence we may be being targeted by fraudsters and that the supplier due diligence processes being operated by the buying teams (or outsourced providers servicing those teams) are not sufficiently robust”.*

243.2 *“Clearly not all the bank’s concerns will regard fraudulent transactions. We know for example that many companies have recently repurposed their activity into the PPE market, and this is not necessarily in isolation a red flag, but I concur with the bank’s assessment we are at high risk and the buying team’s supplier due diligence processes, including the documentation of associated decision making, require strengthening.”*

243.3 *The Ayanda contract, and the associated due diligence, were retrospectively considered and approved by the Deals Committee. The review identified that Ayanda had a number of amber and red flags, although Zhended was given a green flag. The concerns included the limited assets held, indebtedness to the Horlick family, the fact that the holding company was an offshore company and the fact that Mr Horlick had a number of dissolved companies against his name.”*

HPL Case Studies

244. Included below is a summary of three of those contracts, notably PPE Medpro, Worldlink Resources, and Meller Designs.

245.

Supplier Name	PPE Medpro Ltd
Source of referral	Baroness Mone
Actual referrer	Office of Lord Agnew
Total value (£) of HPL PPE contract(s)	£202,850,000
Procurement route	Direct award without competitive tendering process.
Amount of unused PPE provided by the supplier (as per Spotlight on Corruption data)	£124,670,961
Date company was incorporated (if known)	12 May 2020
Other political connections and relevant information:	<p>PPE Medpro was incorporated in May 2020 by Anthony Page.</p> <p>PPE Medpro was awarded contracts valued at circa £203m within 44 days of being incorporated.</p> <p>Page quit as company secretary of MGM Media on 12 May 2020 - a company controlled by Baroness Michelle Mone OBE.</p> <p>Page also held roles at companies controlled by Doug Barrowman - the husband of Baroness Mone.</p>

Despite her lawyers denying she had any contractual involvement with PPE Medpro, Baroness Mone lobbied Cabinet Ministers Michael Gove and Lord Agnew in early May 2020, prior to the contract awards to PPE Medpro.

PPE Medpro has supplied PPE valued at £124m, which remains unused.

The Guardian has reported that Doug Barrowman made circa £45m in profits from the PPE contracts and subsequently transferred £29m of this sum to a trust fund controlled by Baroness Mone and her children.

The contracts between PPE Medpro and the DHSC remain at the centre of a legal challenge brought by the DHSC. Furthermore, the National Crime Agency is currently investigating the same contracts.

Supplier Name	Worldlink Resources Ltd
Source of referral	Lord Agnew
Actual referrer	Office of Lord Agnew
Total value (£) of HPL PPE contract(s)	£258,100,000
Procurement route	Direct award without competitive tendering process.
Amount of unused PPE provided by the supplier (as per Spotlight on Corruption data)	£106,023,787
Other political connections and relevant information:	<p>Worldlink Resources worked with PPE Brokers - Zoe Ley and former Conservative party MP and minister Brooks Newmark to facilitate the deal with the DHSC.</p> <p>In May 2020, prior to the contract awards Brooks Newmark emailed the offices of Health Secretary Matt Hancock and also claimed to have contacted Cabinet Minister Michael Gove. Newmark was lobbying Ministers regarding PPE that could be supplied by Worldlink Resources.</p> <p>It is estimated that PPE valued at £106m that was supplied under these contracts remains unused.</p> <p>Zoy Ley's company Life Partners Ltd recorded £22.9m profits from the PPE deals.</p> <p>During the same period, Brooks Newmark saw his consultancy business (Broks Newmark & Co) increase</p>

	its capital and reserves from minus £2,318 to plus £2.3m.
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246.

Supplier Name	Meller Design Ltd
Source of referral	Office of Chancellor the Dutch of Lancaster (Michael Gove MP).
Actual referrer	Office of the Government Chief Commercial Officer
Total value (£) of HPL PPE contract(s)	£163,518,118
Procurement route	Direct award without competitive tendering process.
Amount of unused PPE provided by the supplier (as per Spotlight on Corruption data)	£8,464,466
Other political connections and relevant information:	<p>Meller Designs is owned by David Meller.</p> <p>David Meller has donated £63,000 to the Conservative Party since 2009.</p> <p>David Meller also donated circa £4,750 to Michael Gove and acted as Mr. Gove's finance chair during his successful campaign to succeed David Cameron as the leader of the Conservative Party in 2016.</p> <p>David Meller was also appointed as a non-executive director of the Department for Education in 2013 - Michael Gove was the Secretary of State for education during this period.</p>

	<p>David Meller Lobbied Michael Gove via email repeatedly prior to the PPE contract awards. Meller also held a meeting with health minister Lord Bethell and DHSC advisor and Conservative party peer Lord Feldman in April 2020, prior to the contract awards.</p> <p>Meller Design saw profits increase to £16.4m following the PPE contracts - a 9000% increase.</p>
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Other information obtained about the HPL via Freedom of Information

247. Emails obtained via FOI request revealed directors of Unispace lobbied former Cabinet Minister Michael Gove on multiple occasions prior to the subsequent award of multiple PPE contracts by the government. Unispace ultimately received PPE contracts via the high-priority lane worth a total value of circa £679m.¹⁰³

248. A freedom of information request was issued on 29 June 2023 to the Cabinet Office requesting information about correspondence between Michael Gove and Unispace on PPE procurement between 1 March 2020 and 15 June 2020.

PM/35a [INQ000507627]

PM/35b [INQ000507628]

PM/35c [INQ000507629]

PM/35d [INQ000507630]

249. The Cabinet Office took 5 months to provide a response to the request. The department issued six extensions of time requests before the ICO compelled the Cabinet Office to provide a response. On 14 December 2023, the Cabinet Office provided a

¹⁰³ <https://goodlawproject.org/michael-gove-opened-the-door-to-biggest-vip-lane-firm/>

substantive response, which also contained copies of email correspondence between Mr Gove and the founders of Unispace. The findings were published by the Good Law Project and the Guardian and include the following information.¹⁰⁴

249.1 In an email signed by the company's "Founder", the firm contacted Gove on 24 March 2020, thanking him for his "*time spent with us on the phone earlier*" and offering to sell PPE, hospital beds, ventilators and other supplies. This initial message seems to have been sent to a personal email address, but the Cabinet Office refused to disclose whether Gove used his personal email address. The email finishes by saying they are "*praying fervently for all men and for you and the Conservative Party at this difficult time*".

249.2 Another email shows the Unispace "Founder" contacted the Minister five days later, thanking him for what appears to be another telephone call they held together earlier in the week. Both Gove and the Cabinet failed to declare these calls in ministerial transparency reports that cover this period. Gove replied the same day, thanking the firm in turn, before confirming, "*we will follow up!*"

249.3 The next day, Gove's office referred the offer on to the office of Matt Hancock – and the pandemic quickly became very lucrative for the firm. The first contract was awarded to Unispace just 20 days after Gove's referral. On 20 April 2020, the Department of Health and Social Care handed the company a £239m contract to provide coveralls – a deal that was signed without any formal competition.

249.4 The Cabinet Office claimed the emails and phone calls between Mr Gove and the Unispace "founder" had no impact on the decision to award the PPE contracts to Unispace.

Examples of reputable supplies being overlooked in favour of politically connected suppliers and inflation of contract value

250. Evidence is in the public domain that suggests suppliers with political connections were awarded PPE contracts despite being more expensive than other suppliers who provided offers for the same product at a lower cost. We outline examples below.

¹⁰⁴ <https://goodlawproject.org/michael-gove-opened-the-door-to-biggest-vip-lane-firm/>

251. Pharmaceuticals Direct Limited (PDL) was awarded two PPE contracts by the DHSC during the pandemic. The first of which was a £28.8m contract, awarded in May 2020 to supply IIR face masks,¹⁰⁵ followed by a second contract valued at £102m to provide FFP3 masks that was awarded in July 2020.¹⁰⁶

252. PDL were at the centre of a number of reports published by Good Law Project in collaboration with national media outlets, which revealed the company worked with a politically connected middleman called Samir Jassal and Surbjit Shergillt to help facilitate the deal with the DHSC. Samir Jassal is a current Conservative party councillor and donor who has been photographed with Boris Johnson, Theresa May, and David Cameron and has personal links to Priti Patel whom he once advised. They repeatedly lobbied government ministers and Special Advisors on behalf of PDL prior to the contract awards. GLP obtained correspondence between the middlemen and the former Home Secretary Priti Patel, Matt Hancock and former advisor to Boris Jhonson Munira Mirza. Evidence obtained suggests DHSC overpaid PDL by circa £50m compared to the average prices paid for the same product whilst simultaneously rejecting lower offers from rival suppliers. GLP reported that the purchase was pushed through by the Cabinet Office despite concern about pricing from Health Department officials. An email from *“Finance Operations”* notes: *“average price +25% is £3.36 including delivery charges. The price per unit is above our 25% tolerance”* and another email notes, *“this is well above the average we are currently paying of £2.69 per unit... the unit price for this deal look[s] too expensive even in these circumstances. Can you please explore further price reductions and/or justify to the AO why the price here is so much higher than the most recent deal?”*

253. Since the award of the contracts, Samir Jassal has donated a further £10,000 to the Conservative Party, and a company called Sunbeam Consulting Ltd, which is controlled by Mr Jassal's wife, has donated £20,700 to Priti Patel's unsuccessful 2024

¹⁰⁵ <https://www.contractsfinder.service.gov.uk/notice/8b9eb33b-7a55-4112-8163-c6f3d1524910?origin=SearchResults&p=1>

¹⁰⁶ <https://www.contractsfinder.service.gov.uk/notice/68b10473-927b-4609-9fe0-9c1c9488f02e?origin=SearchResults&p=1>

Conservative Party leadership campaign.¹⁰⁷ Surbjit Shergill billed PDL at least £16m for his services during the pandemic.

254. On 24 June 2020, the DHSC awarded a £117m contract to Inivos Limited to supply medical gowns.¹⁰⁸ The contract was awarded without any formal competition. Following the contract award, Inivos Limited's financial position changed dramatically. Cash held by the company increased from £32k as of December 2019 to £25m as of December 2020. Furthermore, net assets declared by the company increased from £1.2m in 2019 to £28m in 2020, according to company accounts filed by Inivos in December 2021.¹⁰⁹

255. Meller Designs Ltd is a fashion company owned by David Meller, a longstanding Conservative Party donor, who has given more than £68,000 and supported Michael Gove's leadership campaign in 2016.

256. After contacting both Lord Bethell and the office of Michael Gove, his firm, Meller Designs, won six contracts to make medical equipment worth £163m. Of the six contracts, three were paid above the odds, with the contracts awarded between 1.2 and 2.2 times the average unit price. The average price for medical gowns was £5.87. But the gowns bought from Meller Designs Ltd cost £12.64. £8.46m worth of the equipment supplied by Meller Designs was unsuitable for use in an NHS setting.

257. In April 2020, Andrew Mills – an adviser to the Government's Board of Trade under Liz Truss – brokered a deal for Ayanda Capital to supply masks. This investment firm had no experience in supplying medical equipment but won a contract worth over £252m. These masks were supplied at between 1.8 and 2.6 times over the average paid for similar items – the Department of Health and Social Care does not contest these figures, but Ayanda Capital says it does not recognise them. 50 million of them were deemed unusable in an NHS setting, wasting more than £145m.

¹⁰⁷ https://publications.parliament.uk/pa/cm/cmregmem/240902/patel_priti.htm

¹⁰⁸ <https://www.contractsfinder.service.gov.uk/notice/56a05ee5-5494-41f9-9e72-f0357540918c?origin=SearchResults&p=1>

¹⁰⁹ <https://find-and-update.company-information.service.gov.uk/company/07183575/filing-history>

258. One of the companies to have gained the most from the pandemic is the logistics firm Uniserve, which is owned by Ian Liddell. Liddell has held various roles within the pro-Brexit lobby group Prosperity UK and his company shares an address with the office of MP and then-Cabinet Office Minister Julia Lopez. Between March and June 2020, Uniserve won 12 deals worth nearly £304m to supply gowns, eye protectors, and masks. Eight of these deals were agreed at between 1.4 and 2.7 times above the average price, the highest being a £69.6m contract to supply surgical masks. Over 182.8 million of these items were deemed unusable by the NHS, wasting £178.5m. Uniserve saw its profits for the year ending June 2020 rise to £32m, an increase on the previous year of more than 500%.

259. PPE contracts awarded to politically connected companies were 80% more expensive than PPE procured via other procurement channels. On 11 December 2023, following a leak of internal DHSC documents, the Good Law Project reported the following:¹¹⁰

259.1 *“According to internal documents from the Department of Health and Social Care, the contracts signed through this VIP lane were inflated by at least £925m. On average, VIP lane suppliers were paid 80% more per unit than other suppliers. Some contracts were agreed at more than four times the average unit price.*

259.2 *Good Law Project has been passed a spreadsheet giving details of thousands of different PPE contracts from 2020, which includes figures for the unit price for almost all of these contracts. This information – which the Government redacted from published material – allows us to compare the prices paid for medical equipment sourced via the VIP lane with the prices paid via standard routes. The majority of VIP lane companies signed at least one contract at above the average unit price.”*

PPE storage, incineration, and waste

260. It is unclear why DHSC abandoned its original intentions to build up a PPE stockpile that would last months and instead push ahead with procuring enough stock to last 5 years. Sir Christopher Wormald, the DHSC's Permanent Secretary, revealed in his

¹¹⁰ Good Law Project (December 2023): VIP Lane Contracts Inflated by £925 million

witness statement to the Covid Inquiry that his department appointed consultancy firm McKinsey on 23 March 2020 to “develop a single model for demand” that would enable the government to estimate the volume of PPE required for the NHS and social care setting. The model was completed on 12 April 2020. From mid-May onwards, the PPE model was updated daily by officials. The daily updates allowed the department to “produce a 90-day forward projection of supply and demand for different categories of PPE”.

261. In early June 2020, the DHSC introduced another modelling programme called the “Sales and Operational Planning (S&OP) process”. According to Wormald, this new system was able to provide a “comprehensive and robust process for estimating future demand for PPE”, and the new tool was designed to allow procurement officials to purchase enough PPE to cover a 104 day period.¹¹¹

262. Both of these systems appear to have failed to prevent the government from vastly over-ordering. There is evidence showing that after Wormald instructed officials to stop ordering PPE in June 2020, large contracts to supply PPE continued to be awarded. Wormald claims in his witness statement that he ordered officials to cease procurement of FFP3 face masks on 30 June 2020, yet on 04 July 2020, his department entered a £102.6 million contract with Pharmaceuticals Direct Limited to supply 20 million FFP3s. Similarly, two weeks later, on 14 July 2020 government entered a £87.2 million contract with Draeger Safety UK Ltd to supply a further 50 million masks.¹¹²¹¹³

263. Two years after the pandemic PPE stockpile was purchased, 54% of the equipment remained unused.

264. Out of the 37.9bn items of PPE ordered remarkably, 5bn items still hadn't been delivered, 1.4bn items were being held in storage facilities in China, and 14.2bn items that

¹¹¹ INQ000144792 – Third Witness Statement provided by Sir Christopher Stephen Wormald, on behalf of Department of Health and Social Care, dated 29/03/2023

¹¹² <https://www.contractsfinder.service.gov.uk/Notice/22f31ba8-4c78-44d0-a6bc-42e299840b87>

¹¹³ <https://www.contractsfinder.service.gov.uk/notice/8a31d06e-1dc6-4b62-ba99-1deb33a77c6b?origin=SearchResults&p=1>

were delivered to the UK remained unused and were being held in storage facilities - including 5.6 bn items locked away in shipping containers. The 20.6 bn unused items of PPE came at a high cost to the taxpayer, and the DHSC's annual report for 2020/2021 revealed £9.9 bn was written off the value of the PPE stock.¹¹⁴

265. The department confirmed it had wasted £3.2 bn on procuring PPE that was either “*not suitable for any use*” or “*not suitable for use in the NHS*”. A further £4.7bn was written off due to the inflated prices paid for unneeded PPE, £750 million was squandered on equipment which will pass its' expiry date before being distributed to the NHS, and a further write-down of £1.2 bn was also required for goods that still hadn't been delivered by suppliers.

266. Furthermore, the UK government had to spend vast sums storing and disposing of the excess or unusable stock - suppliers who secured contracts to supply and distribute PPE via the HPL were subsequently rewarded again for storing the unusable PPE. And a supplier whose owner had donated to the Conservative party was awarded a contract to incinerate unused medical goods.

267. By December 2020, at least 14 bn items of PPE remained unused and stored across dozens of warehousing facilities around the country. Circa 5.6 bn items of equipment remained locked away in metal shipping containers. A report by the DHSC on 08 December 2020 marked “OFFICIAL SENSITIVE” confirmed that 17,848 shipping containers loaded with circa 1 million pallets of PPE remained in the country. Media reports at the time suggest Felixstowe port was in “chaos” partly due to the estimated 11,000 containers full of PPE blocking the quay - ships unable to unload due to the “serious port congestion” were being redirected to other ports.¹¹⁵

268. An analysis of historic spending data, published quarterly by the DHSC, demonstrates the department spent a staggering £1.39 bn on “storage costs” between October 2020 and April 2023. This figure includes the storage of PPE and unused COVID

¹¹⁴ <https://goodlawproject.org/ppe-to-go-up-in-smoke/>

¹¹⁵ <https://www.bbc.co.uk/news/business-54908129>

tests and ventilators procured during the pandemic. The biggest benefactor of this expenditure was Uniserve Limited, which was paid £543.7 million pound for storage-related costs by the DHSC over the same period.¹¹⁶

269. Uniserve shared an office complex with Conservative Party MP and former Cabinet Office minister Julia Lopez and saw turnover and profits surge during the pandemic, and government contracts generated payments of £1.347 bn to Uniserve from the DHSC (up to April 2023). Uniserve, despite having no track record of supplying PPE to the NHS, was awarded multiple contracts in 2020 to provide large quantities of masks, gloves, aprons, face shields and goggles. The contracts valued at £303 million were only made possible after Conservative Peer and former Cabinet Office minister Lord Agnew referred Uniserve to the HPL. It was subsequently discovered that huge volumes of PPE supplied by Uniserve under these deals were not fit for purpose. According to data obtained by Spotlight on Corruption, 182 million items of PPE supplied by Uniserve, totalling £178.5 million, were assigned into the 'do not supply' category.¹¹⁷ Uniserve's contracts included a £572m contract in March 2020 to provide freight services to the DHSC.

270. In October 2022, having spent over £1bn storing the large volumes of unusable PPE, ministers made the decision to start incinerating the unwanted medical equipment. Former Health Minister, Lord Markham, told fellow peers in January 2023: *"We have tried to donate as much of it as possible to people who want it, but we have to bite the bullet on the rest and say, "You know what? It's no longer required so we are disposing of it as rapidly as possible."*¹¹⁸

271. By 30 June 2023, the government had incinerated 331,113 pallets of PPE. In total, 1.4 bn items of PPE had been burnt to create "energy from waste" and that number looked set to rise.

¹¹⁶ <https://www.gov.uk/government/collections/spending-over-25-000--2>

¹¹⁷ <https://www.spotlightcorruption.org/half-of-vip-lane-companies-supplied-ppe-worth-1-billion-that-was-not-fit-for-purpose/>

¹¹⁸ <https://www.theyworkforyou.com/lords/?id=2023-01-25b.210.0&s=%22markham%22+%22ppe%22#g210.2>

272. In October 2022, Clipper Logistics, a supplier previously paid £170 million by the NHS supply chain and the DHSC to distribute PPE during the pandemic, was awarded a £4.5 million contract to help with the incineration of unusable and unwanted PPE.¹¹⁹ Clipper were contracted by the government to deliver the unused equipment to two incineration facilities managed by Veolia UK and SUEZ recycling and Recovery UK - Who each were handed a £17.5m deal by DHSC to burn through 576 lorry loads of PPE every month. The £4.5m contract to Clipper was awarded via a call-off from a framework agreement.¹²⁰

273. The founder of Clipper Logistics, Steve Parkin, had previously donated £730,000 to the Conservative party. Parkin, who remains a shareholder in the firm was previously a member of the Prime Ministers Leaders group - an exclusive group for Conservative donors which offered unrivalled access to the Prime Minister and other senior party figures. In March 2024, Parkin attended the Conservative Party's Winter Ball - where a ticket for dinner with the Chancellor of the Exchequer, Jeremy Hunt, required a £25,000 donation.¹²¹

274. In February 2022, Spotlight on Corruption discovered via an FOI request response from the DHSC that 25 out of 50 High-Priority lane suppliers had provided PPE that was considered by government ministers as not fit for purpose. The 25 HPL suppliers had supplied 475.5 million items of PPE valued at a cost of £1,014 bn that were classified as "do not supply" - 50% of all the companies channelled down the high-priority route had provided inadequate equipment.

275.

¹¹⁹ <https://goodlawproject.org/revealed-tory-donors-company-awarded-4-5-million-government-contract-to-take-care-of-mountain-of-unusable-ppe-waste/>

¹²⁰ <https://www.contractsfinder.service.gov.uk/notice/f3b76c36-90f1-4c30-8c72-beaaffec6ee5?origin=SearchResults&p=1>

¹²¹ <https://www.mirror.co.uk/news/politics/tory-donors-firm-paid-11m-28956268>

HPL supplier name	Quantity of PPE (nr)	Total cost (£)
P14 MEDICAL LTD TA PLATFORM 14	20,789,100	£183,567,753
UNISERVE LTD	182,877,570	£178,588,091
AYANDA CAPITAL LTD	44,553,600	£138,116,160
PPE MEDPRO LTD	25,547,328	£124,670,961
WORLDBLINK RESOURCE	11,912,785	£106,023,787
CRISP WEBSITES LTD TA PESTFIX	46,688,900	£84,419,554
NINE UNITED LTD	8,007,560	£69,745,848
SG RECRUITMENT UK LTD	2,360,937	£26,477,555
THE PAPER DRINKING STRAW COMPANY LTD	21,889,430	£24,078,373
EXCALIBUR HEALTHCARE SERVICES LTD	4,459,300	£20,066,850
TOWER SUPPLIES	2,231,086	£10,633,901
MELLER DESIGN LTD	552,100	£8,464,466
AIYA TECHNOLOGY	368,650	£8,155,335
UNIVERSAL SOLUTIONS TRADING LTD	83,334,025	£7,500,062
VISAGE LTD	3,325,230	£6,268,406
IDEAL MEDICAL SOLUTIONS LTD	995,660	£4,342,510
UNISPACE GLOBAL HEALTH*	153,560	£3,679,298
HOTEL LOGISTICS LTD	3,024,460	£2,587,235

HEADWIND INDUSTRIAL (CHINA) LTD	1,000,430	£2,501,075
INVISIO LTD	8,383,500	£2,221,628
REHEAR LABS LIMITED	723,675	£1,140,512
P1F LIMITED	228,020	£691,032
MGP ADVISORY LTD	100,000	£600,000
EUTHENIA INVESTMENTS LTD	12,290	£57,120
REGAL POLYTHENE LTD TA REGAL DISPOSABLES	2,011,000	£38,209
Total	475,530,196	£1,014,635,721

The NHS Test and Trace High-Priority Lane

276. During the pandemic, the DHSC established a second priority lane that allowed offers referred by politically connected individuals to be prioritised over other suppliers. The second priority lane was embedded within NHS Test and Trace (NHSTT) and allowed MPs and Peers to refer offers from prospective Covid-19 testing suppliers to civil servants working within a secretive fast-track process. The new route was eventually transferred from DHSC to the UKHSA.

277. The largest part of the NHSTT budget went on testing services. Between 28 May 2020, when the programme was established up to March 2021 - contracts valued at £7.8bn were awarded by the DHSC to support the NHSTT covid testing requirements.

278. In June 2021, the Good Law Project revealed the existence of a new "VIP" lane after it noticed a comment made on a civil servant's LinkedIn profile. The civil servant's name is Simon Greaves, and according to his profile, he had worked on "*VIP stakeholder engagement*" and held the job title of "*Strategy and Stakeholder Engagement Lead*" for

the Covid-19 testing programme between April 2020 and June 2020.¹²² According to the profile, his “role was to lead VIP stakeholder engagement with Life Science Minister Lord James Bethell, working with diagnostic and biopharma industry executives to build a resilient UK diagnostic centre”.

279. The Good Law Project also obtained an email sent by civil servant Max Cairnduff, dated 6 April 2020, that was sent to the ministerial offices of Lord Bethell, Michael Gove, Lord Agnew, Jo Churchill and Esther McVey. In the email, Cairnduff said to ministers: “Please direct offers of testing kits to the following address where they will be triaged: covidtestingtriage@dhsc.co.uk. If they come from a minister/private office, then please put FASTTRACK at the beginning of the subject line.”

280. Initially, the government dismissed the report and issued a rebuttal to the Guardian, who had jointly published the report. Government officials stated: “These claims are completely false – there was no high priority lane for testing suppliers. All offers of testing went through the same robust assurance checks and there was no separate ‘fast track process’.”¹²³

281. A month later, on 15 July 2021, The Guardian revealed how the government gave “VIP treatment” to a Covid testing company because Matt Hancock was deemed “a good friend” of somebody working with the company, according to emails sent by DHSC officials and obtained by the newspaper. The company was called The Animal Health Trust (AHT). In an email on 23 April 2020, A civil servant wrote: “AHT came in direct to SofS [secretary of state] office – someone who works with them is a good friend of his and so they entered the system informally that way ... They must have fallen through the records gap if we’ve not got a trace of them – they’ve definitely been in touch with us and had VIP treatment.”

¹²² <https://goodlawproject.org/vip-lane-for-testing-contracts/>

¹²³ <https://www.theguardian.com/politics/2021/jun/30/bids-from-politically-connected-firms-for-covid-test-contracts-designated-fast-track-email-suggests>

282. The following morning, a further email was sent by officials regarding the AHT offer *“We definitely need to capture them in the system somehow, so they receive future comms and offers. Owner [sic] is a friend of SofS, lab is in his constituency/area – so he will get direct feedback on our processes!”* The Guardian also revealed how one email between civil servants discussed the existence of “a stakeholder log” in which officials *“capture VIP stakeholders relevant to pillar five [building testing capacity].”*¹²⁴

283. AHT did not successfully win a contract; however, the DHSC still maintained the position that claims of another priority route were *“completely false – there was no high priority lane for testing suppliers. All offers of testing went through the same robust assurance checks and there was no separate ‘fast track process’.”*

284. In September 2021, The DHSC finally dropped its denial of the existence of a second HPL after the Good Law Project uncovered further email evidence of a *“VIP route”* discussed by civil servants who were in the process of placing a contract with the York-based Abingdon Health. Abingdon had been awarded a £75 million contract by the DHSC in August 2020 to provide lateral flow devices.¹²⁵

285. The government finally confirmed the scale of the NHSTT priority lane. Between May 2020 and March 2021, 50 suppliers had priority referrals for covid testing support and were awarded 128 contracts with a total value of £6bn.

286. On 02 March 2022, Good Law Project submitted a freedom of information request to the DHSC for the names of the fifty VIP companies and also the names of the Ministers, MPs and Peers who had initially referred them onto the fast-track route. The DHSC passed the request onto the UKHSA to handle, who withheld the information on cost grounds, claiming it would be too expensive to provide the names. However, following a complaint

¹²⁴ <https://www.theguardian.com/world/2021/jul/15/firm-with-ties-to-matt-hancock-given-vip-treatment-emails-suggest>

¹²⁵ <https://goodlawproject.org/update/breaking-government-misled-public-over-existence-of-vip-lane-for-testing-contracts/>

to the ICO, the UKHSA were ordered to hand over the information. **PM/36 [INQ000507631]**

287. On 21 December 2022, The UKHSA finally published the names of the VIP firms alongside the names of the senior officials and politicians who referred them to the high-priority route. The list revealed that Introductions from just six Conservative Party politicians led to 'VIPs' being awarded contracts worth an estimated £5 bn.¹²⁶ Following a similar pattern to the PPE high-priority lane, only referrals from Conservative Party linked politicians succeeded in winning contracts. There were no successful awards from suppliers referred by politicians from the Labour Party, Liberal Democrats, SNP, or any other political party.

288. The data provided by the UKHSA covered the period in which NHSTT was established in May 2020 through to March 2021. During this period, the government placed 158 contracts for Covid-19 testing services, of which 50 contracts went to VIP's. The value of all 158 contracts was £7.8bn. The 50 VIP contracts received £6 bn worth of those deals. 77% of all Covid-19 testing contracts placed during this period went to VIP's. £4.8bn of the £6bn handed to the "priority" firms was done so via direct awards without competition.

289. The below table represents all Covid Testing priority supplier names. Source: UKHSA.

Supplier	Identified by	Referrer	Goods/service provided
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¹²⁶ <https://goodlawproject.org/revealed-the-names-of-those-who-referred-covid-testing-firms-into-the-vip-lane/>

Abbot Diagnostics Ltd	Rapid	Third party contacted NHS England (NHSE) employee and Lord Bethell, Minister for Innovation, DHSC	NHSE employee to covidtestingtriage@dhs c.gov.uk	PCR tests, antibody tests, reagents, and laboratory equipment
Accora Ltd		Supplier contacted Lord Lansley	Lord Lansley to Lord Bethell, Minister for Innovation, DHSC	PCR testing
Aptamer Group Ltd		Supplier self-referred to mailbox covid19triageservice@nhsbsa.nhs.uk	Forwarded from covid19triageservice@nhsbsa.nhs.uk to covidtestingprioritycontracts@dhsc.gov.uk	LFD tests
Berkshire and Surrey Pathology Services		Existing DHSC partner	Existing DHSC partner	PCR testing
Bigneat Ltd		Information not held centrally	Information not held centrally	Laboratory equipment
Bio-Rad Laboratories Ltd		Gareth Rhys Williams, Government Chief Commercial Officer, Cabinet Office identified supplier	Gareth Rhys Williams notified Emma Stanton, Director of Supplies and Innovation, NHS Test and Trace. Forwarded to covidtestingprioritycontracts@dhsc.gov.uk	PCR consumables
CAS (Contained Air Solutions Ltd)		Existing DHSC supplier	Existing DHSC supplier	Laboratory equipment

Charnwood Campus Management Ltd	Supplier contacted Environment Agency official	Environment Agency official to NHS employee and DHSC officials	Building lease
Dante Labs (Immensa)	Supplier self-referred to online portal	Supplier self-referred to online portal	PCR testing and genomic sequencing
Detact Diagnostics Ltd	Supplier contacted BEIS official	No10 official to Emma Stanton, Director of Supplies and Innovation, NHS Test and Trace	New testing technology
Diasorin Ltd	Supplier self-referred to mailbox covidtestingprioritycont acts@dhsc.gov.uk	covidtestingprioritycont acts@dhsc.gov.uk	Antibody tests
DnaNudge Ltd	Imperial College London contacted Shirley Trundle, Programme Director, National Diagnostic Effort COVID-19	Shirley Trundle, Programme Director, National Diagnostic Effort COVID-19 to covidtestingprioritycont acts@dhsc.gov.uk	PCR tests
Ecolog International (UK) Ltd	Genix Healthcare (third party) contacted Office of Matt Hancock, Secretary of State for Health and Social Care	DHSC official to covidtestingprioritycont acts@dhsc.gov.uk	PCR testing
Eurofins Biomnis UK Ltd	Supplier contacted PHE official	PHE <official to covidtestingtriage@dhs c.gov.uk>	PCR testing

Hologic Ltd	Existing DHSC supplier	Existing DHSC supplier	Reagents, assays and testing consumables
Hotel Logistics Ltd	Supplier contacted Ministry of Defence (MoD) official	MoD official to covidtestingtriage@dhs c.gov.uk	Lateral flow tests
Health Services Laboratories LLP	Existing DHSC supplier	Existing DHSC supplier	PCR testing
Humasis Co Ltd	Department of International Trade (DIT) official identified list of South Korean test manufacturers	List provided by DIT official to Emma Stanton, Director of Supplies and Innovation, NHS Test and Trace	Lateral flow tests
Innova Medical Group Inc	Tried & Tested (third party) contacted Dominic Cummings, Special Adviser, No 10	William Warr, Special Adviser at No 10 to Emma Stanton, Director of Supplies and Innovation, NHS Test and Trace	Lateral flow tests
IQVIA Technology Services Ltd	Association of British Pharmaceutical Industry contacted NHSE employee and officials at DHSC and the Office of Life Sciences	Association of British Pharmaceutical Industry contacted NHSE employee and officials at DHSC and the Office of Life Sciences	Evaluation and clinical trial support
LGC Ltd	Supplier contacted Prof John Newton, Director of Health Improvement, PHE	Prof John Newton, Director of Health Improvement, PHE, to covidtestingtriage@dhs c.gov.uk	Laboratory equipment and reagents

LumiraDx UK Ltd	Lord (David) Prior, Chair of NHS England (third party) contacted the Ministerial Office of Lord Bethell, Minister for Innovation, DHSC	Ministerial Office of Lord Bethell to Shirley Trundle, Programme Director, National Diagnostic Effort COVID-19	Lateral flow tests
Omega Diagnostics Ltd	Supplier self-referred to mailbox covidtestingprioritycont acts@dhsc.gov.uk	covidtestingprioritycont acts@dhsc.gov.uk	Lateral flow tests
Optigene Ltd	Cabinet Office official contacted the Ministerial Office of Lord Bethell, Minister for Innovation, DHSC, and NHS employee	Cabinet Office official contacted the Ministerial Office of Lord Bethell and NHS employee	LAMP machines and tests
Origin Ltd	Supplier contacted DHSC official	Office of Life Sciences official to covidtestingtriage@dhs c.gov.uk	PCR tests
Pal International Ltd	Existing DHSC supplier	Existing DHSC supplier	Laboratory consumables
Primer Design Ltd	Existing DHSC supplier	Existing DHSC supplier	Reagents
Pro-Lab Diagnostics Ltd	Existing DHSC supplier	Existing DHSC supplier	Laboratory equipment and PCR tests
Qnostics	Existing DHSC supplier	Existing DHSC supplier	Reagents tests

Roche Diagnostics Ltd	Supplier contacted the Ministerial Office of Lord Bethell, Minister for Innovation, DHSC Existing DHSC supplier	Ministerial Office of Lord Bethell to Prof John Newton, Director of Health Improvement, PHE, officials from PHE and Office of Life Sciences, and covidtestingprioritycont acts@dhsc.gov.uk	Laboratory equipment and consumables, and antibody tests
Sterilab Services	Supplier contacted official at PHE	PHE official to covidtestingprioritycont acts@dhsc.gov.uk	Laboratory equipment and consumables
SureScreen Diagnostics Ltd	Liam Fox MP contacted Office of Matt Hancock, Secretary of State for Health and Social Care	Office of Matt Hancock to DHSC officials	Lateral flow tests
Tecan	Existing DHSC supplier	Existing DHSC supplier	Laboratory equipment
The Native Antigen Company	Third party contacted Sir Mark Sedwill, the then Cabinet Secretary, who forwarded directly to his office requesting that they pass on to the appropriate officials	Office of Sir Patrick Vallance, UK Government Chief Scientific Advisor covidtestingtriage@dhs c.gov.uk	Reagents
Thermo Fisher Scientific Life Holdings Ltd	Existing DHSC supplier	Existing DHSC supplier	Laboratory equipment
Thriva	Supplier self-referred to mailbox covidtestingtriage@dhs c.gov.uk	covidtestingtriage@dhs c.gov.uk	Antibody tests

UNA Health	Existing DHSC supplier	Existing DHSC supplier	Antibody tests and lateral flow tests
11 Universities: University College London, University of Birmingham, University of Liverpool, University of Oxford, University of Southampton, University of Warwick, University of York, University of Manchester, King's College London, Newcastle University, Queen Mary University of London	Existing DHSC partnerships	Existing DHSC partnerships	
Waters Ltd	Ministerial Office of Lord Bethell, Minister for Innovation, DHSC contacted supplier	NHS Test and Trace official to covidtestingprioritycontracts@dhsc.gov.uk	Laboratory equipment
Wolf Laboratories Ltd	Supplier self-referred to online portal	Supplier self-referred to online portal	Laboratory equipment

Unknown scale of the NHS Test and Trace HPL

290. By UKHSA's own admission, their list only covered suppliers referred onto the "high priority" route after 28 May 2020 and up to March 2021. A freedom of information

request was submitted to UKHSA on 22 December 2022. requesting details of any suppliers who were funnelled through the HPL prior to 28 May 2020.

291. On 24 January 2023, UKHSA provided a response to this request (UKHSA ref: 22/12/22/KMG/1184). The department confirmed a further two companies did receive priority status pre 28 May 2020. Namely Nationwide Pathology Ltd who was referred by Conservative Party MP Alberto Costa to Matt Hancock on 26 March 2020, and another company called Perkinelmer Las (UK) Ltd. **PM/37 [INQ000507632]** To date, UKHSA have not updated the public record to include the additional two suppliers.

292. Furthermore, an additional freedom of Information request was issued to the UKHSA on 08 April 2024 requesting the names of covid testing suppliers referred on the HPL after March 2021 and prior to March 2020. To date, the UKHSA have failed to provide a response and has repeatedly stonewalled requests for an answer. The matter is currently being reviewed by the ICO.

293. We now know that the official number declared by UKHSA (50 suppliers) should, at the very least, be updated to include the two known additional HPL suppliers (52 suppliers in total).

294. The UKHSA and DHSC have not confirmed if Randox received priority treatment via an HPL. The *“Officials told us they do not consider that Randox came through the test and trace procurement high-priority entry routes created early in the pandemic to deal with supplier referrals from ‘high-ranked individuals’ such as ministers, MPs and the Prime Minister’s Office. The analysis that UKHSA conducted retrospectively in January 2022 to identify high-priority suppliers focused on activity from May 2020 to March 2021, two months after the award of Randox’s first testing contract”*.¹²⁷

295. Therefore, because the UKHSA analysis only covers the period two months after Randox were awarded its contract, it remains unclear if Randox were referred to the HPL

for covid testing procurement and, if they were, who identified them and referred them into this fast-track route.

Data gaps in the UKHSA's published list of NHSTT Priority suppliers

296. According to the UKHSA, a supplier called Abbot Rapid Diagnostics was first identified by a "third party" who then subsequently contacted an NHS England employee and former Health Minister Lord Bethell. The third party remains anonymous in the published data, however, following an FOI request, the UKHSA has now confirmed the third party is Conservative Peer Lord Andrew Feldman. **PM/38 [INQ000507633]**
297. Two suppliers (Omega Diagnostics Ltd and Diasorin Ltd), it is claimed by UKHSA, "Self-referred" themselves onto the HPL, using the bespoke email address established by the UKHSA. It is unclear how the suppliers were able to self-referrer themselves to a mailbox that was not public knowledge during this period.
298. Dante Labs (t/a Immensa) self-referred themselves to the online portal. Attempts via FOI to obtain a copy of the initial referral have been ignored by the UKHSA and are currently the subject of an ongoing complaint to the ICO.
299. Recent media reports confirm the former PM Rishi Sunak, working alongside Dominic Cummings, helped to "fast-track" payments to Innova Medical. Specific details of Sunak and Cummings involvement remain unclear, partly because the government is refusing to answer questions whilst the inquiry is ongoing. In response to an email from Russell Scott, a government spokesperson said: "*We have always said there are lessons to be learned from the pandemic and we are committed to learning from the Covid inquiry's findings which will play a key role in informing the government's planning and preparations for the future. While the inquiry is ongoing, it would not be appropriate to comment.*"¹²⁸

¹²⁸ <https://www.theguardian.com/world/article/2024/jun/17/boss-us-firm-uk-covid-contracts-accused-squandering-millions-on-jets-properties>

NHS Test and Trace HPL Case Studies

300. Similarly to the above section about the PPE HPL, we provide some case studies. Innova Medical Group Inc, Surescreen Diagnostics, and Immensa.

301.

Supplier Name	Innova Medical Group Inc
Source of referral	Tried & Tested (third party) contacted Dominic Cummings, Special adviser, No.10.
Actual referrer	William Warr, Special Adviser at No 10 to Emma Stanton, Director of Supplies and Innovation, NHS Test and Trace
Total value (£) of HPL PPE contract(s)	£4 bn+ to supply Lateral Flow Tests
Procurement route	Primarily direct awards without a competitive tendering process, but also a combination of “call offs” from Framework agreements
Date company was incorporated.	March 2020
Other political connections and relevant information:	A report published by Good Law Project on 24 February 2023 confirmed the following: ¹²⁹

¹²⁹ <https://goodlawproject.org/new-company-with-just-85-in-the-bank-made-20m-profit-after-dominic-cummings-referred-innova-medical-into-the-vip-lane/>

	<p><i>“Two middlemen – Charles Palmer and Kim Thonger emailed Dominic Cummings directly at 10.39 am on 29 July 2020 on behalf of Innova Medical Group.”</i></p> <p><i>“Included in the 29 July 2020 email was a letter addressed to Mr Cummings with former health secretary Matt Hancock and current Net Zero minister Grant Shapps also CC’d.”</i></p> <p><i>“The brief letter included a plea for the Government to “engage” with Palmer and Thonger over Innova’s “game-changer” Covid test.”</i></p> <p><i>“Within one hour of Dominic Cummings receiving the email, he had referred it to former No.10 advisor William Warr who had in turn referred the offer onto Emma Stanton, the former Director for Supplies and Innovation working on ‘Test and Trace’. Warr also thanked the pair for the “note to Dom”.</i></p> <p><i>“Less than two months later, Innova was awarded its first contract, valued at £103m – without competition, to supply lateral flow tests. Innova went on to win 12 contracts to supply Covid tests totalling more than £4bn in value.”</i></p> <p>A report published in the Guardian on 17 June 2024 revealed the following:¹³⁰</p> <p><i>“Rishi Sunak’s team helped fast-track deal with firm founded by Charles Huang, who says contracts generated \$2bn profit”</i></p> <p><i>“In his evidence to the Covid inquiry last October, Cummings told how he had pushed through the first Innova contract with backing from Sunak’s team.”</i></p> <p><i>“In his evidence to the Covid inquiry last October, Cummings told</i></p>
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¹³⁰ <https://www.theguardian.com/world/article/2024/jun/17/boss-us-firm-uk-covid-contracts-accused-squandering-millions-on-jets-properties>

	<p><i>how he had pushed through the first Innova contract with backing from Sunak’s team.”</i></p> <p><i>“In the autumn [of 2020],” Cummings said in his written statement, “Sunak’s team supported me with the mass testing team as we tried to overcome horrific Whitehall bureaucracy, secretly buy hundreds of millions of fast tests before other countries realised their value and there was a PPE-like panic.”</i></p> <p><i>“The UK Health Security Agency has confirmed, in response to a freedom of information request, that the first contract awarded to Innova was one of two – both of which were later published – that Cummings was referring to as the “secret” buying of rapid tests. Agreed in September 2020, it was worth £103m. The government went on to spend billions more with the company.”</i></p> <p>Charles Huang, the Innova boss, is currently at the centre of a number of legal challenges in the US:</p> <p><i>“In a storm of claims and counter-claims, Innova’s boss, Charles Huang, is accused by former associates of “squandering” or moving \$1bn of those profits, spending lavishly on luxury aircraft, an \$18m house in Los Angeles and “homes for his mistresses”.</i></p>
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302.

Supplier Name	SureScreen Diagnostics Ltd
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Source of referral	Liam Fox MP contacted the Office of Matt Hancock, Secretary of State for Health and Social Care
Actual referrer	Office of Matt Hancock to DHSC officials
Total value (£) of HPL PPE contract(s)	£514 million to supply Lateral Flow Tests and associated materials.
Procurement route	Direct awards without a competitive tendering process.
Date company was incorporated	8 August 1996
Other political connections and relevant information:	<p>A report published by Good Law Project on 3 September 2022 confirmed the following:¹³¹</p> <p><i>“Liam Fox MP sent an email to then-Health Secretary Matt Hancock on 22 June 2020, in which he pushed for Public Health England (PHE) to get in contact with SureScreen.”</i></p> <p><i>“Hi Matt, as you probably know, one of the British companies exporting huge numbers of antibody tests is Derbyshire-based SureScreen. They have performed extremely well in internationally conducted trials,” the email read.”</i></p> <p><i>“SureScreen faced one major problem: it had not yet been approved by PHE, and without that approval, it would not be able to secure a contract to supply the NHS.”</i></p> <p><i>“Dr Fox had been made aware of this by the company’s director David</i></p>

¹³¹ <https://goodlawproject.org/new-company-with-just-85-in-the-bank-made-20m-profit-after-dominic-cummings-referred-innova-medical-into-the-vip-lane/>

Campbell, who had pressed for the products to be approved the same day the email was sent to Mr Hancock. "Would it be possible to send this on to the P HE and ask them to be in touch with the company," wrote Dr Fox. "As we enter the next phase I don't think the British people would understand or approve of the widespread export of this capability when we have a huge need at home."

"In January 2021, the Department for Health and Social Care announced SureScreen's tests had been approved and that it had been awarded a two-year contract, without competition, to provide 20 million Covid tests to the NHS, costing £503 million ."

After securing the contract, the firm's profits promptly jumped from £1.5 to £67 million "as a result of the reward of a new contract".

In June 2022, Dr Fox received a five-figure donation from SureScreen. The generous contribution of £20,000 was given directly to the MP, and registered two weeks later."

This information was obtained through a Freedom of Information request.

A further report published by the Good Law Project on 13 October 2022 also revealed that Adam Werrity, a former advisor and close friend of Liam Fox, was also involved in "negotiation sales for SureScreen".¹³²

¹³² <https://goodlawproject.org/surescreenupdate131022/>

International Experience

303. **Section Summary:** As part of our statement, we were asked to provide an analysis of how public procurement for key healthcare equipment and supplies was undertaken globally during the pandemic. In this section, we set out differences in the centralisation of procurement systems for PPE and key healthcare equipment and supplies; transparency and publication of contracts within EU member states and non-EU member states; price increases for PPE and key healthcare equipment and supplies; challenges in relation to distribution of key healthcare equipment and supplies; and prevalence of fraud in relation to PPE. We also consider the unique operation of the HPL in the UK.

304. One of our organisations, the Open Contracting Partnership, is a non-profit organisation working in over 30 different countries around the world and in connection with procurement experts and reformers across the globe with employees in over 30 countries. Transparency International has expert local chapters in over 50 countries. Another of our participants, Chris Smith, is a global procurement expert who has worked across the globe on procurement reforms in over 20 countries, including helping to manage emergency procurement for the Ebola crisis. We also have contributed to expert global guidance on how to manage emergency procurement and the Covid PPE procurement, such as the UN Office of Drugs and Crime's 2023 Non-Binding Guidelines For Strengthening International And Multilateral Cooperation To Further Prevent, Identify, Investigate And Prosecute Corruption During Times Of Emergency And Crisis Response And Recovery. OCP has directly advised and assisted countries with their Covid emergency procurement, including Colombia, Ecuador, Lithuania, Moldova, Paraguay and Ukraine, as well as convening global expert discussions on the topic and publishing user-friendly guidance. As such, we consider ourselves well-informed across the range of global emergency procurement responses.

305. The UK was not alone in having procurement challenges during the pandemic. A World Bank Survey covering 103 countries between April and August 2020 showed that transparency and accountability standards deteriorated for Covid-19-related procurement relative to standard procurement, particularly in terms of data accessibility on emergency purchases.¹³³ However, even putting the High Priority Lane aside, our overarching impression is of a lack of coherence and systematic thinking in how the UK's PPE emergency response seems to have evolved. Below, we evidence better OECD responses in the following areas.

305.1 Coordination, especially smarter use of coordinated buying mechanisms, including frameworks and supplier lists.

305.2 Less heavy and continued reliance on direct awards (as measured and compared to European peers from EU procurement data)

305.3 Better transparency and disclosure

305.4 Better use of digital tools

305.5 Better stop and review mechanisms to assess early pandemic responses and to course-correct

Centralisation of Covid-19 procurement, framework, and supplier lists

306. Every country that we are familiar with opted for some form of centralisation of the procurement of PPE, given the unprecedented scale of the challenge and the level of market disruption. This is a rational and appropriate approach. As Canada's Office of the Procurement Ombudsman report on Emergency Procurement in December 2020 noted: *"The global nature of the COVID-19 pandemic presented a unique challenge in that the emergency situation unfolded on a global scale almost simultaneously. This resulted in unprecedented global competition for the same finite resources. This situation necessitated further centralization of the procurement function in order to mitigate the*

¹³³ Cociolo, S., Di Maro, V. & Samaddar, S. 2021. Public procurement at the onset of the Covid-19 pandemic. pp.135-146 in O. Bandiera (Ed.). Procurement in Focus: Rules, Discretion, and Emergencies. Centre for Economic Policy Research, London.

*challenges brought about by the increased global demand for scarce goods.*¹³⁴ How that centralisation and coordination was then implemented is the pivotal question.

307. Professor Sanchez-Graells' expert report to the Inquiry points out Italy's centralised and coordinated response with a Special Commissioner coordinating and conducting all emergency purchasing until the end of the state of emergency.

308. That decisively settles the issue of who oversees coordinating the response, something we think the Inquiry should seek to understand from the government: who exactly was in charge, and what specific authorities were they given? Clear lines of authority and command are evident in many of the UK's global peers, many of which had a professional, organised public procurement service working across government (e.g., Canada, Portugal, Italy, Lithuania, Ukraine, Colombia, Paraguay). The UK does not have a professional cadre and centre of expertise available to the government in the same way, and that negatively impacted the UK's response.

309. Another example of clear authority comes from Canada, which published clearly stated increases in financial authority to sign off on emergency procurement in place with a clear time frame for that increased authority.

310. One of the most obviously successful approaches to COVID PPE emergency procurement internationally was to set up some kind of emergency open framework or suppliers list or marketplace that allows any provider of the required standard of PPE to meet with buyers to rapidly undertake due diligence and conclude transactions (ideally with some vetting frontloaded to minimise time wasting).

311. Again, a good example was Canada's clear and accessible public call for PPE suppliers, which had very clear public specifications of what was being requested.¹³⁵ Also

¹³⁴ Office of the Procurement Ombudsman, Canada. December 2020. Knowledge Deepening and Sharing. Emergency Procurement. Section 3.3. Available at: <https://opo-boa.gc.ca/documents/urgence-emergency-eng.pdf>

¹³⁵ Public Services and Procurement Canada. 2020 (updated 2021). Specifications for COVID-19 Products. Available at: <https://buyandsell.gc.ca/specifications-for-COVID-19-products>

note that the call was directly led and coordinated by BuyandSellCanada, the government's centralised demand aggregation and buying agency, putting suppliers into a structured and coherent process. Interested suppliers could also "*Sign up for a seminar on finding opportunities and supplying goods and services to the Government of Canada during COVID-19*"¹³⁶ to acculturate themselves to how Canada does procurement and what the next stages for engagement are. Throughout the process, there are clear processes and standards, and everyone responding would be clear about what happens next. We would characterise this as a "this is what we need" approach.

312. These traits are less evident from the UK's call for suppliers, which seemed more of a "what have you got?" process without clear channels to manage feedback. This, in turn, has been cited as a reason to set up the High Priority Lane, in what appears to have been a reactionary improvisation. As detailed in the High Court Judgement by Mrs Justice O'Farrell in the Pestfix case by Max Cairnduff, a senior civil servant working in the Complex Transactions Team in the Cabinet Office: "*Following the Defendant's (i.e. the UK governments) 'call to arms' a large number of would-be suppliers contacted their MPs, Ministers or senior officials with their offers. Those Senior Referrers passed the offer to the PPE Cell (at first without a dedicated place to send them, until I asked that the dedicated email address be set up). Those who had made the referrals were highly likely to seek feedback or progress updates frequently and robustly. This was not unreasonable: the Senior Referrers were keen to assist with the effort and wanted to ensure offers sent to them from their constituents and other suppliers would not be lost but were instead being followed-up. The HPL was therefore an Opportunities Team which dealt with the referrals from those sources, which were going to demand a higher level of contact and stakeholder management at the same time as the caseworkers were gathering the requisite information in order to take the decision of whether the opportunity was worthwhile and should be passed to Technical Assurance for the next stage of scrutiny.*"¹³⁷

¹³⁶ <https://www.canada.ca/en/public-services-procurement/programs/pac/event-calendar.html>

¹³⁷ High Court Of Justice, Business And Property Courts Of England And Wales, Technology And Construction Court (Qbd) [2022] EWHC 46 (TCC). *Between Good Law Project Limited (2) Everydoctor Claimants And The Secretary Of State For Health And Social Care - And - Defendant (1) Crisp Websites Limited (T/A Pestfix) (2) Clandeboye*

313. We think it is important that the Inquiry explores this point. Could the public call for help have been made in a more structured, date-centric and intentional manner, which detailed a clearer idea of the process with intentionally-designed next steps? Would this, in turn, have provided more actionable intelligence and data for frontline procurement officials to prioritise credible supply opportunities? Was the “What have you got?” approach a politically led improvisation that left procurement professionals scrambling to keep up?

314. In September 2021, the DHSC characterised the UK call to action as *“an entirely new ‘open-source’ approach to procurement – we were inviting industry to come to us: opening up fresh sources of supply that we could rapidly vet ... Absolutely central to this new approach was our willingness to work with brand-new suppliers, because this was a brand-new marketplace for PPE ... They came from within government and outside, via politicians and civil servants, from healthcare professionals and commercial experts ... [This] reflects the number of different types of ‘referral’, ranging from offers that were simply forwarded by staff working in ministerial private offices and personal referrals from MPs, to suppliers passed on by healthcare professionals and offers referred by the NHS’s existing supply chain – SCCL.”*¹³⁸

315. A recommendation to government includes that the Cabinet Office and the Department (DHSC) should include guidance for determining what is considered a credible offer and how this is communicated to potential suppliers. Had the UK taken a more structured approach as in Canada, it would have met that recommendation at the start of its Covid procurement process.

Supplier lists and open frameworks

Agencies Limited (3) Ayanda Capital Limited. Paragraph 60. Available at: <https://www.monckton.com/wp-content/uploads/2022/01/PPE-Good-Law-Project-226-291-292-419-Approved-Judgment.pdf>

¹³⁸ UK Department of Health and Social Care. Response. 17 November 2021. PPE procurement in the early pandemic. Available at: <https://www.gov.uk/government/news/ppe-procurement-in-the-early-pandemic>

316. Canada's Office of the Procurement Ombudsman report on Emergency Procurement also details how suppliers or vendor lists can work well in emergencies: *"The ability to mobilize resources and respond quickly is often critical to the success of response efforts. One strategy used to reduce procurement lead-time and ensure the timely delivery of goods and services is the establishment of vendor lists or standing offers."* A standing offer is *"an offer from a potential supplier to provide goods and/or services at pre-arranged prices, under set terms and conditions, when and if required."*
317. It is recognized as an efficient means of acquiring goods and services as call ups (known as call-offs in the UK) against standing offers tend to be *"processed faster, involve less paperwork and have pre-arranged prices and terms and conditions already set."*
318. During a pressing emergency, relying upon already established standing offers not only minimises the time and cost associated with issuing a solicitation, but the pre-arranged prices may also protect the purchasing body from price gouging. By working with pre-qualified established vendors, the method introduces some stability in a potentially unstable time.
319. Professor Sanchez-Graells provides a positive example of this approach from Germany in his background report to the Inquiry: *"The Federal Government directly engaged in the procurement of PPE through the procurement offices of four of its major Ministries (Defence, Finance, Interior and, later on, Health) and then distributed that PPE according to a fixed quota to the federal states, which passed the goods on, primarily to hospitals and care facilities. One of the interesting and effective centralised procurement initiatives involved a 'fixed terms' (or 'take-it-or-leave-it') mechanism whereby the Ministry of Health set technical conditions and prices for specific products and any company that could meet the requirements and agreed to that price was entitled to a contract. This mechanism was open for two weeks and led to deliveries of a total of 233 million FFP2 masks and 63 million surgical masks. After the national and international markets eased, central procurement was terminated at the end of June 2020".*¹³⁹

¹³⁹ Paragraph 320 in Sanchez-Graells, A. 8 July 2024. Expert Report for the UK Covid-19 Public Inquiry. Module 5: Procurement, Public Procurement During Emergencies.

320. The important role of framework agreements and supplier lists in emergency settings is explained well in the 2021 book: “*Public Procurement Regulation in (a) Crisis? Global Lessons from the COVID-19 Pandemic*” by renowned UK and US procurement experts (cited below as Arrowsmith et al.). Frameworks can have confusing terminology attached to them. Often, they are a closed list of vetted companies pre-selected from an open application to demonstrate their credentials and products in an area (this is a so-called closed framework). If there are providers of goods and services in a closed framework already in a framework relevant to an emergency, buyers can easily turn to those trusted suppliers with minimal friction. Obviously, this would be very helpful to an emergency response.

321. Our understanding - as detailed by Professor Arrowsmith’s specific analysis of the UK PPE procurement in her book on emergency procurement - is that existing closed PPE provision frameworks were used to supply about a third of the UK’s initial PPE need. Presumably stocks of those suppliers were then exhausted. That said, it will be important for the Inquiry to check that this was the case and that the pre-vetted and ready-to-go suppliers were used to the maximum extent. We have also heard comments and expert opinions that pre-pandemic suppliers of PPE to the NHS were lost in the overwhelming response to the government’s ‘Call to Industry’, so we would invite the Inquiry to ask for expert evidence to explore that issue.

322. The full and proper use of existing frameworks is unclear to us based on existing public data and information. For example, the UK used SCCL pre-existing frameworks to buy £5bn of PPE, but the contracts were never published. This included two contracts for PPE with Full Support Healthcare Ltd worth £1.8bn, where 90% of the PPE was left unused, resulting in a write-off estimated to be £1.4bn according to SCCL’s response to a BBC FOI request **PM/10 [INQ000507581]**. Why not prioritise using existing suppliers and frameworks vs new sourcing? Why was this all unused? Was it because of the scale of sourcing of PPE elsewhere, or was it because procurement bandwidth and attention were devoted to the HPL lane? Or, as we detail later, so much was procured so quickly that it was impossible to use it all?

323. If existing frameworks and suppliers were exhausted, setting up new closed frameworks for suppliers would not be very helpful as there would then be a delay in

launching a new competitive solicitation process to join the new closed framework. Instead, the established emergency approach is to structure an open framework, where any interested supplier that meets the criteria can join the list at any time (albeit with a smaller due diligence delay of vetting a supplier onto the framework or list). Given the PPE market during the pandemic was in chaos and buyers and suppliers were desperate to connect, this open framework or buyers list seems a powerful procurement instrument, allowing buyers to meet suppliers and also for demand aggregation.

324. It is also an approach directly supported and encouraged by the United Nations Commission On International Trade Law (UNCITRAL) Model Law on Procurement in emergency situations.¹⁴⁰ As the Arrowsmith et al. book points out: *“The Guide to Enactment [of the Model Law] specifically highlights the value of frameworks in this context and, more generally, their value for security of supply, including to secure medicines without the excessively high prices and poor quality that may result from single-source procurement in urgent situations. While the Guide indicates that framework agreements are generally considered to create risks beyond an ‘ordinary procurement’, including closing off markets and collusion, thus requiring controls over this choice, in the urgency context, risks may be greater without a framework arrangement given that the alternatives are likely not to be ordinary open tendering procedures but, instead, the exceptional methods of competitive negotiations or single-source procurement.... Such open framework agreements can again provide a rapid, but still open and transparent, source of supply for emergencies. They are particularly suitable for standardised procurement, given the obligation to invite and assess tenders from all qualified suppliers. (For more complex needs it may be quicker to limit tenders to a few suppliers whose status and tenders have already been evaluated under a closed framework.”*

325. A good example of using an open framework as the core part of the PPE emergency response comes from Colombia (an OECD member), which has a well-

¹⁴⁰ United Nations Commission On International Trade Law (UNCITRAL) Model Law on Public Procurement 2011 is available at:
https://uncitral.un.org/en/texts/procurement/modellaw/public_procurement#:~:text=The%20Model%20Law%20is%20aimed,be%20appropriate%20for%20all%20States

respected and professional procurement service, Colombia Compra Eficiente (CCE). Colombia issued an emergency decree about public procurement during the COVID crisis, allowing expedited procedures to procure the necessary goods and services.¹⁴¹ CCE asked all companies supplying specified critical products to register for and, once verified, to be included in an overarching emergency framework agreement (its so-called Instrumento de Agregación de Demanda Emergencia Covid-19). This approach allowed agencies nationwide to compare online prices and characteristics easily and form call-off contracts from the framework quickly and simply.¹⁴²

326. CCE required any contract awarded during the crisis, regardless of the procurement method, to be disclosed in an open data format on CCE's open data webpage.¹⁴³ CCE also created an accessible open data dashboard to identify and analyse emergency contracts. It is worth noting that not everything was contracted and reported adequately in Colombia due to the use of special regimes that side-stepped established processes, including vaccine contracts and some ventilator purchases. The government was also criticised for being slow to publish contract extensions.¹⁴⁴

327. The Inquiry should also explore why the unnecessary restrictions on entry to frameworks were not waived. An important recommendation of the Inquiry should be to propose clear planning and design of the best possible open framework or take-it-or-leave-it supplier lists for future health emergencies in the UK. Is the UK lacking the institutional machinery to establish such approaches quickly and effectively without a centralised procurement agency? Is it that the various outsourced framework providers like the Crown

¹⁴¹ Colombia Compra Eficiente Decreto Legislativo 440 de 2020. Nuevas normas ante COVID 19. Available at: <https://www.colombiacompra.gov.co/sala-de-prensa/comunicados/nuevas-normas-ante-covid-19>

¹⁴² Instrumento de Agregación de Demanda Emergencia COVID-19. Available at: <https://www.colombiacompra.gov.co/tienda-virtual-del-estado-colombiano/salud/instrumento-de-agregacion-de-demanda-emergencia-covid-19>

¹⁴³ Colombia Compra Eficiente Datos Abiertos. <https://www.colombiacompra.gov.co/transparencia/gestion-documental/datos-abiertos>

¹⁴⁴ For more context on special regimes see: Romero, A., & Enciso, C. August 2020. Design and Measurement Of A Corruption Risk Index From A Supplier Perspective In The Context Of Covid-19 Emergency. Instituto Anticorrupción, Colombia. Available at: <https://www.estudiosanticorrupcion.org/guias-de-buenas-practicas-la-contratacion-de-obras-publicas-territoriales/>

Commercial Service or NHS Supply Chain Services needed to be more flexible in their approach and mandate to be able to innovate with approaches like this?

Use of accelerated mini competitions

328. Not every country simply stuck with their current procurement rules to tackle Covid; some refined them to meet the needs of the pandemic. A good example comes from Paraguay, widely regarded as a procurement innovator and centre of excellence in Latin America. Its Covid National Emergency Law 6524/2020 authorised the use of two types of purchasing procedures to streamline government contracting processes: ‘simplified direct contracting’ and ‘contracting by way of exception with subsequent dissemination’ (in Spanish: Contratación por vía de la excepción con difusión posterior).

329. The simplified direct contracting procedure is like a normal competitive process but with a much shorter bidding time, typically ending within five days of the tender notice being advertised. The procuring entity must issue the call for proposals, the award, and the contract via the DNCP’s public system to allow it to be registered and published on the DNCP’s public portal.¹⁴⁵ (Dirección Nacional de Contrataciones Públicas)

330. The other procedure, “*exception with subsequent dissemination*” allows procuring entities to award a contract without first publishing detailed specifications and conditions. Before the award, the entities are only required to register and publish an “*intention-to-buy by exception with subsequent dissemination*” in the system, which contains basic information about the intended purchase and is labelled with a “COVID-19” tag.¹⁴⁶

331. After an intention-to-buy is issued, companies interested in submitting offers can directly contact the procuring entity to know more about the contract specifications. To make these contracts as competitive as possible, the DNCP put a lot of effort into disseminating the intentions-to-buy, which are advertised online, through mobile apps, social networks and by mail to vendors who registered as sellers of Covid-19 related

¹⁴⁵ <https://contrataciones.gov.py/>

¹⁴⁶ Available at: <https://contrataciones.gov.py/buscador/intenciones-de-excepcion.html>

products and services. After an “exception with subsequent dissemination” tender is awarded, the procuring entity uploads the data related to the successful award to the system, including the suppliers, amounts, the contract, the budget lines used to finance the contract, payments and finally, the follow-up to the implementation of the contract. This seems a much better approach than the UK’s High-Priority Lane in terms of a clear workflow and a public transparency commitment.

332. Innovation with shorter competitive processes with accelerated timeframes and more flexible procurement processes was possible. Did the UK consider its options adequately here, especially for pre-award and market engagement with new suppliers? The UK will have more flexibility over accelerated competitions with its new Competitive, Flexible Procedure under the 2023 Procurement Act.

The EU Joint Procurement Agreement

333. Professor Sanchez Graells writes in his expert report (REF, paras 20 to 21) that the UK chose not to participate in the EU’s Joint Procurement Agreement for medical countermeasures (JPA) despite having the option to participate. The JPA was an international agreement to facilitate the joint procurement of medical countermeasures required to respond to a serious cross-border health threat. Given the urgency of the situation, it is surprising that the UK would choose to forgo what could have been a significant opportunity to aggregate buying power and improve its collective bargaining position. As Professor Sanchez-Graells notes, *“Although the functioning of the JPA was imperfect and there were initial problems—with the first PPE procurement requiring a relaunch—it is widely recognised that it helped participating countries improve access to needed supplies from relatively early on in the pandemic. It should also be stressed that the JPA provided significant flexibility to participating countries through putting in place very large framework agreements. Not having access to such a route to procurement may partially explain why the UK had to independently secure much larger volumes of PPE than other countries—with the associated risk of overbuying.”*

334. One key question for the Inquiry would be to ask government decision-makers why, given this was an unprecedented emergency, they did not participate in the JPA. The Inquiry should also seek to understand if that decision was taken in an informed manner,

with a clear assessment of the implications and clear documentation around the decision-making. The Inquiry should also assess the implications of that decision and whether, as Professor Sanchez-Graells suggests, not pursuing that route meant that the UK had to independently secure much larger volumes of PPE than other countries—with the associated risks. (And we note that the UK had very large amounts of PPE written off, which seems to back up this point).

Direct awards and non-competitive awards: The UK and peers

335. Almost every country that we know of relied on the enhanced use of either direct awards with an emergency exemption and/or negotiation without prior publication (the difference between the two is relatively minor, depending on whether you are talking to more than one party (for a direct award) or several (negotiation procedure)).

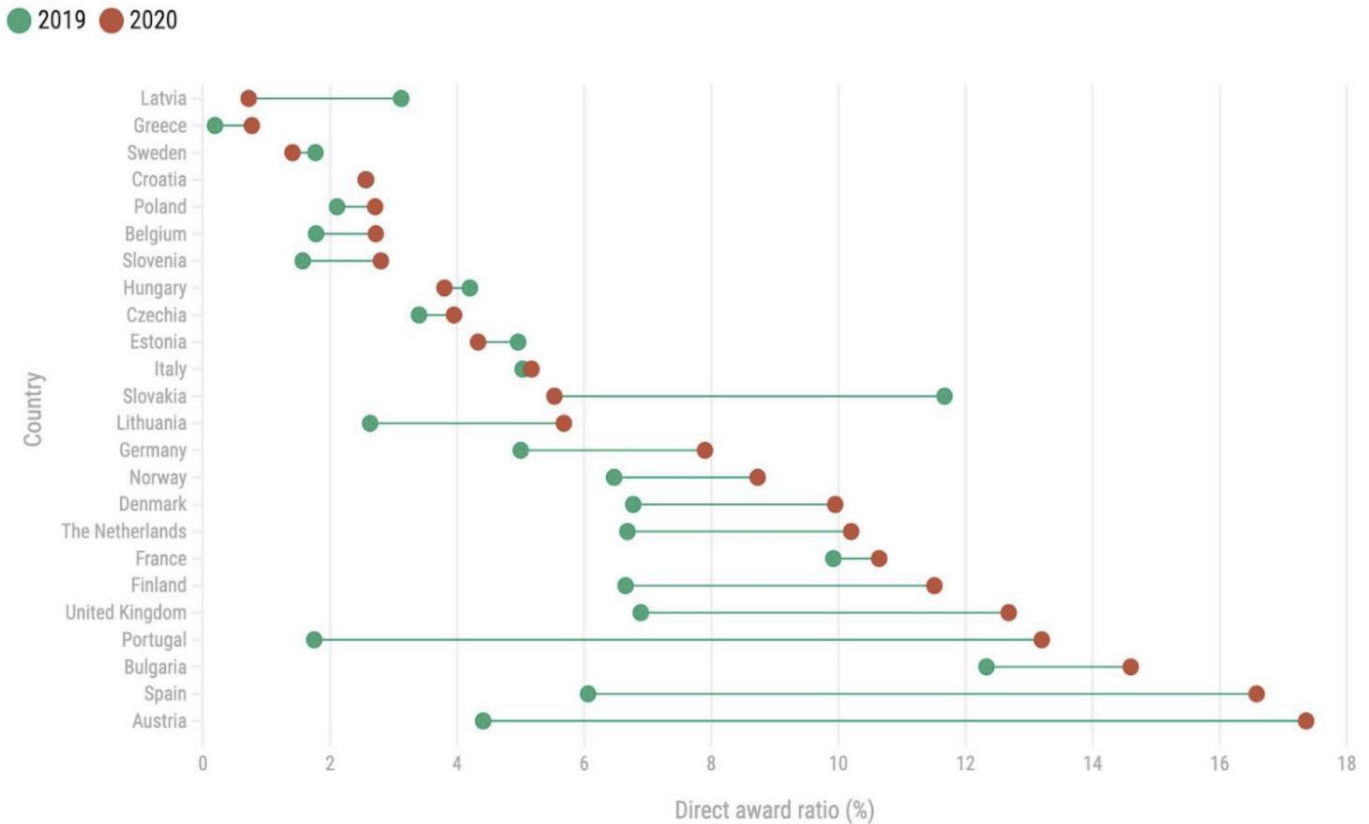
336. Nonetheless, a June 2020 European data analysis by procurement data experts Spend Network seems to show that the UK's use of these direct, non-competitive contracting methods was higher than its European peers.¹⁴⁷ Spend Network looked at the top 10 publishers of 2019 contract award notices in the EU's Tenders Electronic Daily (where all tenders and awards across the EU above E143K are meant to be published) and compared the difference in numbers and values between the eight month period of January to August of 2019 and 2020, as well as looking at how many were competitively awarded or not. Their analysis shows a clear pattern of a shift in most member states to using more direct contracting methods.

337. Despite the urgency of procurement to combat Covid-19, some countries - Slovakia, Estonia, Hungary, Croatia, Sweden and Latvia - actually increased their proportion of competitive procedures, which, as the report says, *“suggests that it is not impossible to maintain a competitive tendering environment during a pandemic”*.

¹⁴⁷ Spend Network. 2020. An Assessment of European Procurement around Covid-19. Spend Network, London. Report available at: https://mcusercontent.com/14684805a72fc0dd0b2ebf816/files/819104a3-2a53-49f5-aadd-398928c1af0d/European_C_19_Procurement_Report_2020.pdf The full dataset is available at: https://docs.google.com/spreadsheets/d/1f30UiXi_cETh1o8ZH0bbZXkujPWfJcMRYjEVCjBu8U/edit?gid=706787087#gid=706787087

338.

Shift in Direct Award proportions 2019 v 2020



(category 5)

339. When a subset of contracts related to Covid-19 is selected using the EU Common Procurement Vocabulary (CPV) codes and where a minimum quality of information is present, the UK becomes more of an outlier: *“the UK stands out as having a high direct award proportion for C-19 contract awards”* according to Spend Network’s analysis, although it is worth noting that the data quality in TED is imperfect and notices often have missing information.

340. That the UK relied on more direct procedures for longer than its European peers is a very important finding for the Inquiry to investigate. We double-checked this finding

with our analysis comparing the UK and European peers' use of direct procurement procedures from EU's Tenders Electronic Daily (TED) data from 2019 through 2021.¹⁴⁸ TED data can be messy, so we compared the UK to its three EU peers, which have a large number of TED notices filed (Germany, France and Poland).

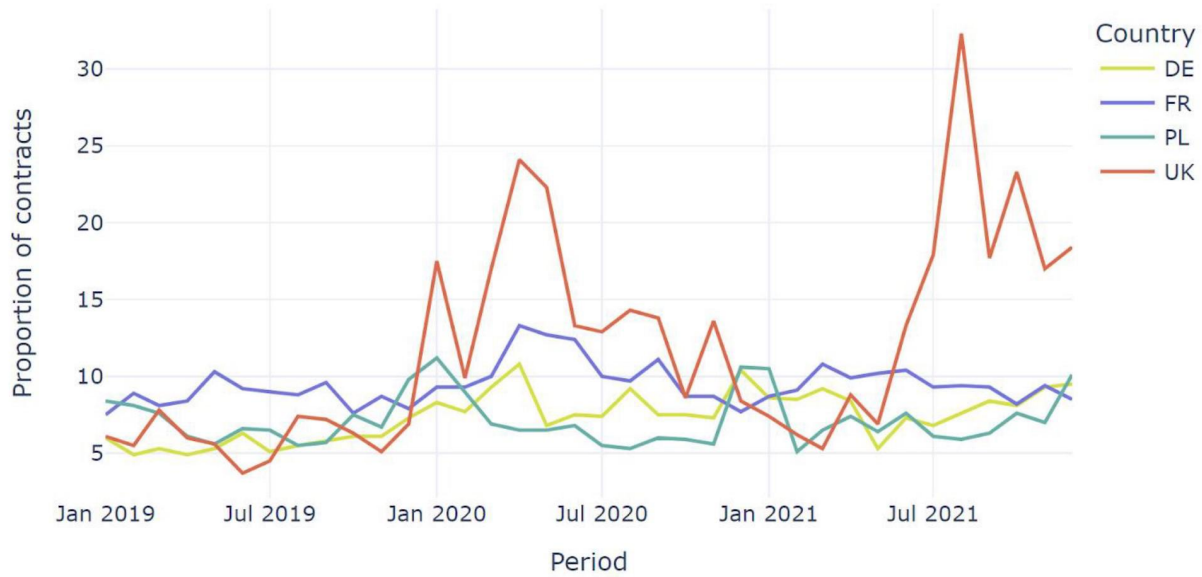
341.

Country	2020 Direct	2020 Non Direct	Direct award proportion
UK	67	43	60.91%
All Europe	109	235	31.69%
Europe Minus UK	42	192	17.95%

(category 6)

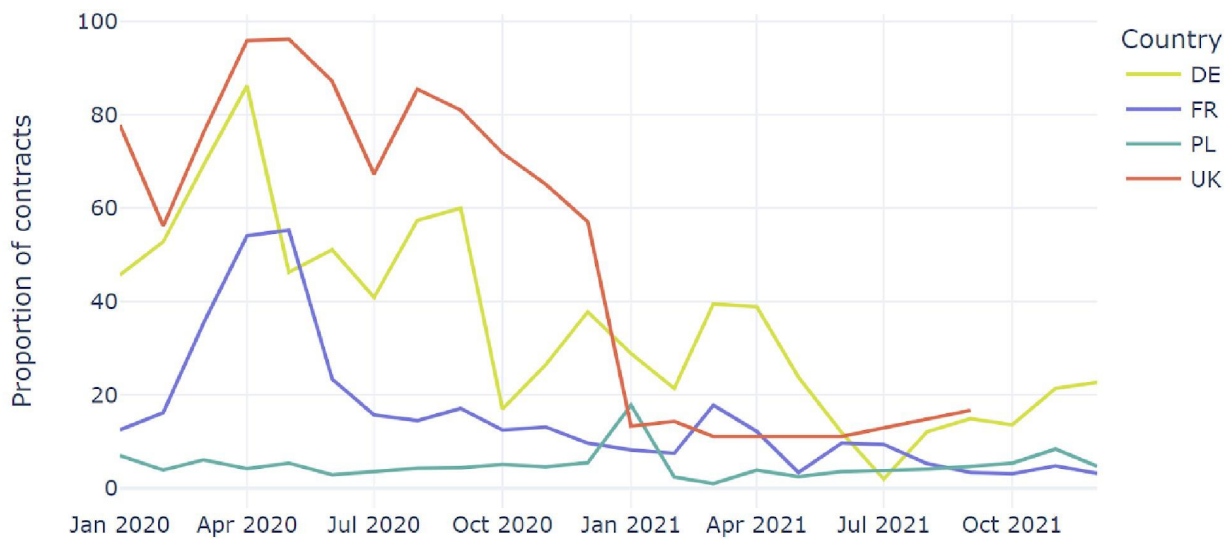
¹⁴⁸ <https://data.europa.eu/api/hub/store/data/ted-csv-data-information-v3-6.pdf> and https://drive.google.com/file/d/1aLxojf7luUGX3yQ_BZaHheX6l7SlozHx/view?usp=drive_link

Proportion of direct awards and negotiated procedures without publication (all notices)



(category 7)

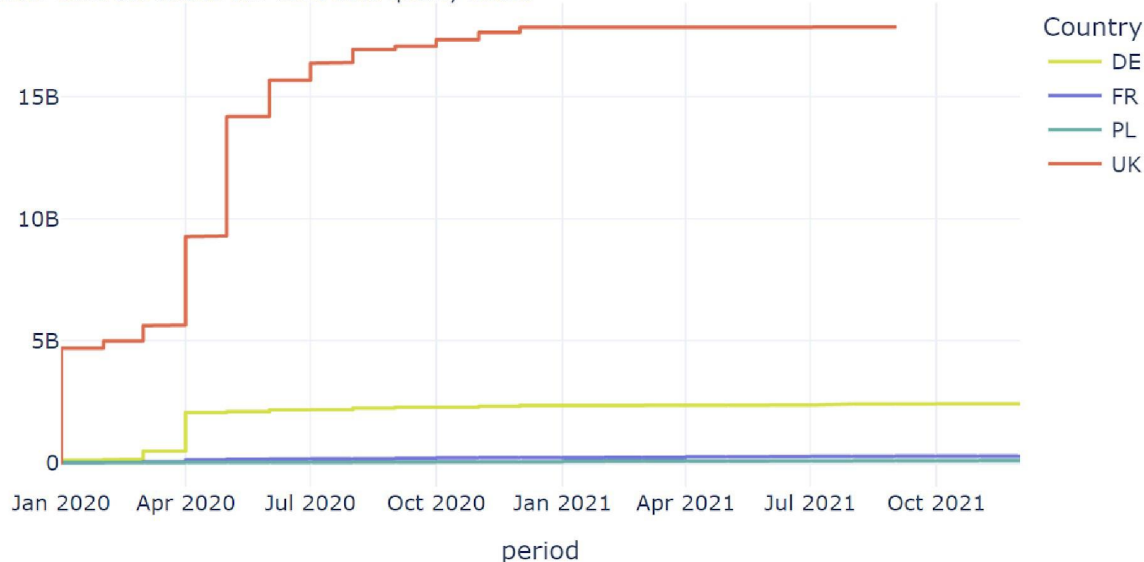
Proportion of direct awards and negotiated procedures without publication in Covid notices



(category 8)

Covid contract notices cumulative total value awarded in direct and negotiated procedures without publication 2020-2021

Note: Contract values can have data quality issues



(category 9)

342. If we look at the proportion of all the Covid PPE and associated direct awards over time (category 8), it is notable that the UK's proportional use of direct awards is much higher than its peers, mounting to c.78% of the total, vs 41% for Germany, c. 18% for France and c. 7% for Poland. Looking at the best available comparative datasets, it seems that the UK is an outlier in the scale and duration of the use of direct awards for Covid PPE. However, we accept the data is noisy and incomplete.

343. Our main observation is that Germany and the UK seem to have relied on direct awards for a very large proportion of their overall PPE value. When we compare actual amounts spent cumulatively on PPE over time, the UK appears to far exceed its European peers by the cumulative value of PPE contract awards, giving credence to the overbuying point raised by Professor Sanchez Graells and others (category 9).

Transparency and publication of contracts

344. Reliable, timely information about who is buying what, at what price, and from whom is incredibly helpful during periods of extreme market disruption. A government should be doing all it can to connect buyers and suppliers quickly and to support timely and accurate information on prices and availability of PPE. As we have shown earlier in our submission, in the transparency section, available data from Contracts Finder shows that there was a statistically significant delay in publication of the UK's Covid PPE emergency contracts: information on urgent emergency awards was much less available than normal contract award information at this time of crisis in the UK. This seems especially perverse (as well the level of delay, some 100+ days to publish award information being unlawful) so it is important for the Inquiry to fully understand the reasons for these delays from the UK government.

345. The UK's performance on transparency and disclosure seems especially poor when compared to other international jurisdictions. Compare Ukraine and Colombia, which were able to publish and monitor their emergency contracts during the pandemic in under 24 hours, against the UK, where the turnaround for public disclosure was more like 100 days.

346. Ukraine's emergency procurement response (in Emergency Law #530-IX) allowed for direct awards to suppliers outside of the country's normal competitive procurement process and online e-procurement reverse auction system, Prozorro. Explicitly and intentionally, procuring entities using these powers were obliged to report and publish their orders within one day of the contract being signed, sooner than the norm. The option to make a complaint and normal standstill period were also removed. There was a clear list of goods, works and services with specific Common Procurement Vocabulary (CPV) codes, medicine International Nonproprietary Names (INNs) and Global Medical Device Nomenclature (GMDN) codes which could be procured using this mechanism from essential medicines and medical supplies and equipment to catering and transportation services for patients and staff.¹⁴⁹

¹⁴⁹ Law of Ukraine Amending Legislative Acts of Ukraine to Prevent the Occurrence and Spread of Coronavirus Disease (COVID-19). <https://zakon.rada.gov.ua/laws/show/530-20/ed20200402>

347. The day after the emergency Covid-19 contract was concluded, the procuring entity was obliged to submit a structured report to Ukraine's public ProZorro procurement platform covering the main information about the contract, such as the list of items, the price per item, terms, awarded supplier, etc. In addition to the report, the procuring entity must upload the contract document, including all annexes and amendments. Once the contract is finalised, the procuring entity must submit a report and disclose the final value paid. This is a good example of how to balance new emergency powers with appropriate responsibilities of disclosure and transparency.

348. In Ukraine, all data on Covid PPE contracts were available as structured, machine-readable open data (according to the widely adopted open standard supported by the Open Contracting Partnership called the Open Contracting Data Standard (OCDS) and immediately became available to the general public through an open API. Ukraine's Prozorro system has advanced risk analytics and business intelligence tools both for government and public users available at www.prozorro.bi, enabling quick assessment of the state of the market by any user. Some clear instructions on how to use that for its specific Covid-19 procurement dashboards were documented and shared with the OECD as part of its project capturing procurement and other digital innovations in response to the Pandemic. The approach was also summarised in a public blog by Prozorro's CEO in April 2020.¹⁵⁰

349. To give an idea of the innovation that is possible with a good open data ecosystem around procurement in a time of emergency, by the end of April 2020 alone, there were:

349.1 Prozorro's BI dashboards for emergency contracts;

349.2 A digital tool created by the Ministry of Health and the Medical Centralised Procurement Agency to predict demand on over 100 items based on hospital capacity, existing equipment and current load;¹⁵¹

349.3 A company due diligence tool. YouControl offered free access for all procuring entities to minimize their risk of dealing with unreliable suppliers;¹⁵²

¹⁵⁰ <https://www.open-contracting.org/2020/04/16/how-open-contracting-approaches-help-ukraine-to-tackle-covid-19/>

¹⁵¹ <http://meddata.com.ua/?fbclid=IwAR3dVR2mNiqOeQ8AsZjMUgtrbCTYHgaeJfLE3rOZFMnMTpDEo249wcv7GfU>

¹⁵² <https://youcontrol.com.ua/en/>

349.4 Dozorro, a longstanding civil society monitoring project on government contracts, was able to launch a dedicated project to focus specifically on Covid-19 procurement, including tracking procurement and prices for masks, tests, and ventilators;¹⁵³

349.5 A medical equipment and supplies procurement map developed by journalists from Slidstvo.Info.¹⁵⁴

350. Information from Colombia's open frameworks for PPE contracts was also published immediately in an open data OCDS format on CCE's webpage. CCE also made a dashboard to identify and track emergency contracts.¹⁵⁵

351. In Paraguay, all procurement awards, including those from its new Covid public procurement procedures, had to be registered and published on the procurement authority's public portal and its open data portal through an API in the Open Contracting Data Standard format, including a new Covid19 procurement dashboard as well as making all its new rules, guidance and tools easily accessible in one place. The DNCP added specific data fields in its procurement system that identify if a simplified direct contracting tender, or intent-to-bid, is associated with Covid-19 emergency procurement.¹⁵⁶

352. There were also innovations by the UK's European peers. Portugal's Public Procurement Institute (IMPIC) reconfigured its public contracts register portal and issued technical guidance to speed up the publication of contract details on the national e-tendering platform, which is published as open data using the OCDS (as reported to the Open Contracting Partnership at a Covid emergency response community call by leading procurement practitioners worldwide).¹⁵⁷

¹⁵³ <https://ti-ukraine.org/en/blogs/how-much-the-government-spends-on-masks/>

¹⁵⁴ <https://www.slidstvo.info/blogs/koronavirus-karta-zakupivel-medychnyh-vyrobiv-v-ukrayini/>

¹⁵⁵

<https://app.powerbi.com/view?r=eyJrIjoiMGQ5YTkwNzltZWVhMC00ZTgxLWJmYzgtODE1NWE0ZGZmNDVklwidCI6IjdiMDkwNDZlNTI0NTEtNDI0MC04Y2IxLTc5ZDVIM2Q4YzFiZSIsImMiOiR9>

¹⁵⁶ <https://www.contrataciones.gov.py/dncp/covid-19/acciones-ante-el-covid-19/>

¹⁵⁷ <http://www.base.gov.pt/Base/pt/Homepage>

353. Lithuania's Public Procurement Office, after some early experiences with failed tenders and quality control of sole sourcing PPE, conducted a comprehensive emergency procurement review in June 2020, collating and publishing 1,214 Covid-19 contracts for PPE, disinfectant and logistics from January to May 2020.¹⁵⁸ Recognizing the value of public trust and civil and journalist monitoring, it also decided to share all its Covid contract information as open data on a publicly accessible dashboard. The dashboard offers user-friendly visualisations of key pandemic procurement information to show who brought what, from whom, and when.¹⁵⁹ As well as its public trust building and information, Lithuania's procurement stop and review process seems pertinent to the UK: the Inquiry should investigate what stop and review processes the UK had in place to reflect on the initial emergency response, especially after the first few months of the pandemic, when ongoing high levels of demand were no longer unforeseen.

354. More generally, countries with comprehensive e-procurement systems were able to more promptly adjust their public procurement functions to respond to the Covid-19 emergency.¹⁶⁰ Research supported by OCP analysing 17 countries in Latin America concluded that the extent to which governments were able to disclose information on Covid-19 contracts was a result of how much technical capacity they had prior to the pandemic. After the Procurement Act 2023 and with the plans to allow for publication of high quality, standardised open data using the OCDS format across the entire commercial cycle of UK planning contracts (as detailed in the Cabinet Office's Our Transparency Ambition paper of June 2022),¹⁶¹ the UK should be in a much better position to respond with public dashboards and data on future emergency purchases. It will be important that the UK and the new government make proper investments in this capacity now to deliver on that promise. We hope that the Inquiry will issue a clear recommendation to this effect

¹⁵⁸ https://vpt.lrv.lt/uploads/vpt/documents/files/Viesuju_pirkimu_kovai_su_COVID-19_apzvalga.pdf

¹⁵⁹ The dashboard is available at: <https://vpt.lrv.lt/lt/nuorodos/kiti-duomenys/powerbi/kovai-su-covid-19-sudarytos-sutartys/>

¹⁶⁰ Coccio, S., Di Maro, V., & Samaddar, S. 2021. Public procurement at the onset of the Covid-19 pandemic. In O. Bandiera (Ed.). *Procurement in Focus: Rules, discretion, and emergencies* (135-146). London, UK: Centre for Economic Policy Research

¹⁶¹ <https://www.gov.uk/government/publications/transforming-public-procurement-our-transparency-ambition/transforming-public-procurement-our-transparency-ambition#where-do-we-go-from-here>

and check that this investment is still happening. We would argue that procurement in the UK remains far too paper-based and undigitized, creating huge transaction costs and inefficiencies for all the parties involved and that the UK should consider further investment in electronic and digitised solutions.

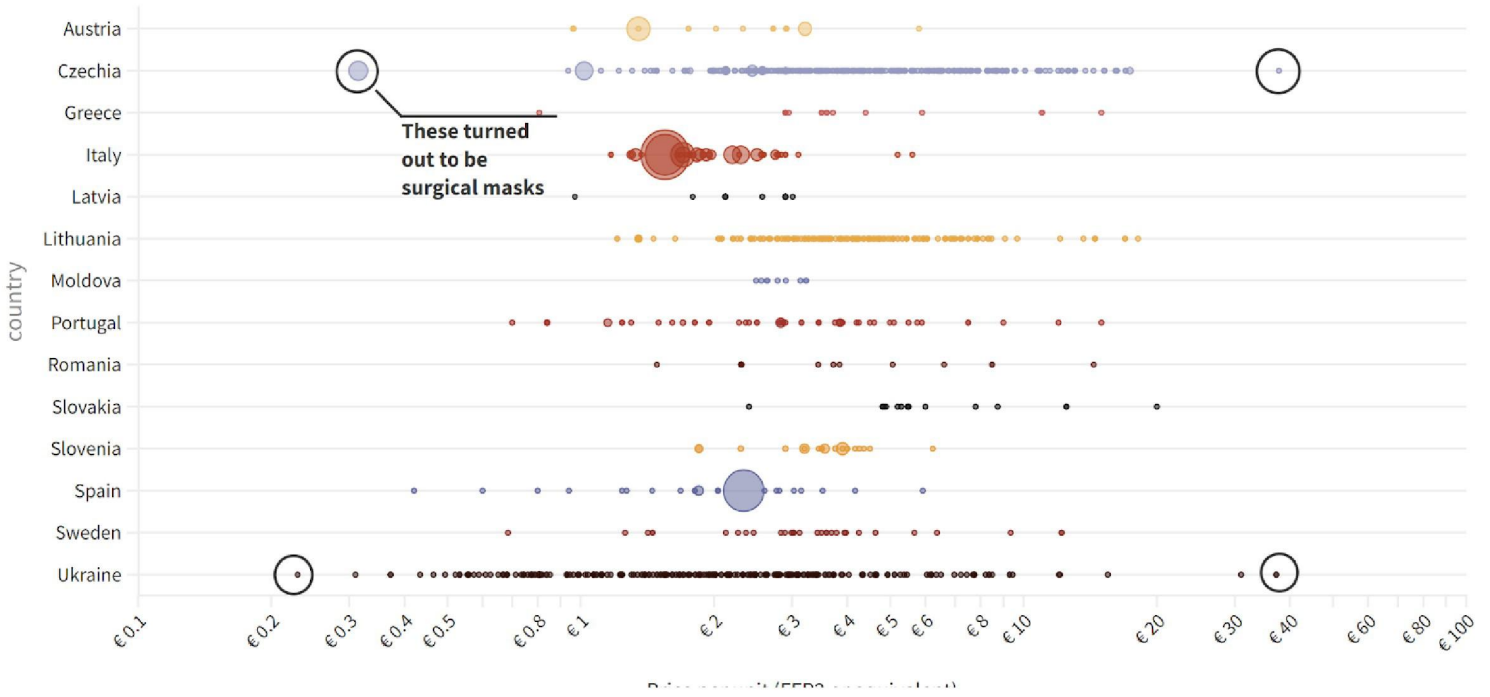
Price increases

355. The best information that we have seen on comparative prices of PPE across Europe comes from an analysis of European Covid procurement data by the well-respected investigative journalism organisation The Organised Crime and Corruption Reporting Project (OCCRP).¹⁶²

356. We reproduce their table (category 10) on the spread of costs of FFP2 or equivalent masks which shows a range. From their data, the European median price paid was EUR 3.27 per mask. Note that some of the very low prices reported subsequently turned out to be inadequate, as did some of the very high-priced masks too. These are circled in the analysis. The size of the circles links to the number of purchases at that price. If the Inquiry can access UK pricing information, it would be interesting to look at the spread of prices paid in the UK, especially comparing purchases from the High Priority Lane to those outside. The Inquiry should also investigate if the UK, during emergency procurement was using pricing information to assess the relative value of consignments and if there was a maximum that was agreed. The inflation of contract values to politically connected suppliers in the UK is documented in more detail in our High-Priority Lane section.

¹⁶² OCCRP. 21 October 2020. Europe's COVID-19 Spending Spree Unmasked. Available at: <https://www.occrp.org/en/project/crime-corruption-and-coronavirus/europes-covid-19-spending-spree-unmasked>

Spread of Prices for FFP2 and Equivalent Respirators
On a Logarithmic Scale



(category 10)

Distribution challenges

357. The Inquiry asked us for international experiences in the challenges in relation to the distribution of key healthcare equipment and supplies. We were also asked in a separate question if “UKACC or its membership carried out any comparative investigations or assessments in relation to procurement systems for key healthcare equipment and supplies and PPE that were administered by central government departments as opposed to the health and care sector?”.

358. We claim no specific expertise in these areas. We share two reports that touch on this topic from Lithuania and Italy.

- 358.1 Italy, Ministry of Health, Direzione Generale Dei Dispositivi Medici E del Servizio Farmaceutico. *“Report on the surveillance activities on medical devices. Year 2020”*¹⁶³
- 358.2 Lithuania, Public Procurement Service. 2020 January-May. *“Public procurement contracts for the fight against COVID-19”*¹⁶⁴.

Fraud in other jurisdictions

359. We do not know of good, comparative information on the level of fraud in different jurisdictions. For some more open and transparent jurisdictions, we can see the number of contracts referred to a dispute body for further investigation or resolution. Looking at the data from Prozorro in Ukraine, for example, for 2020 for items purchased under the CPV codes that cover protective masks and protective clothing, we see that 0.14% of total contracts, but 2.98% of value were in dispute (where in dispute means that they were referred to the Procurement Review Board). In 2021, some 0.14% of purchases, covering 1.86% by value, were in dispute.

High-Priority Lane

360. We looked across our global networks spanning over 50 countries around the world, and we know of no other country that had any response comparable to the High Priority Lane, whereby PPE equipment referrals from politicians were placed into a special category for prioritised procurement treatment with its own special due diligence regime and where they were subsequently more likely to get contracts.

361. In our opinion and experience, the whole purpose of procurement laws is to prevent politicians from influencing contract awards. Close connections or referrals from a politician should be the cause for more scrutiny of a contract, not less.

362. In the 50+ countries where we work, the more professionalised, independent, and organised public procurement is as a public service in a country, the swifter and more

¹⁶³ https://www.salute.gov.it/imgs/C_17_pubblicazioni_3214_allegato.pdf

¹⁶⁴ https://vpt.lrv.lt/uploads/vpt/documents/files/Viesuju_pirkimu_kovai_su_COVID-19_apzvalga.pdf

effective the Covid emergency response seemed to be. Witness the rapid innovations we evidenced by BuyandSellCanada, Prozorro in Ukraine, CCE in Colombia and the LPPO in Lithuania. This is the opposite of allowing politicians to prioritise referrals. We do not know of any evidence that politicians were particularly well placed to decide who has viable offers of PPE in an emergency and who does not.

363. We do know of direct political involvement in other countries related to the budget earmarking for specific contracts mostly around infrastructure. For example, in Colombia, “cupos indicativos” are preliminary budget allocations legally assigned by Congress members to various entities or projects within the national budget. These allocations allow politicians to direct where the money goes, prioritising their regions, etc. A crucial difference from the High Priority Lane approach is that the projects themselves are then openly and competitively tendered: it is both illegal under procurement law and a conflict of interest for the politician involved to then try to influence who gets awarded the contract. And there is no one stop shop process that distinguishes their treatment from normal, competitive procurement procedures. Cupos indicativos is not dissimilar to pork barrel appropriations in US budgets. Again, in the US there is a separation between a budget earmark and the contracting process. Both processes in Colombia and the US are generally regarded with public distrust and are seen as political rent-seeking, responsible for white elephant projects and ‘bridges to nowhere’.

Lessons Learned

364. **Section Summary:** Effective emergency procurement systems are crucial not only for pandemics but also for other crises, such as natural disasters, conflicts, and industrial accidents. Any lessons learned exercise should consider technical improvements, the human impact on patients, care home residents and frontline responders, and account for the widespread dissatisfaction with the government’s handling of procurement, particularly regarding the perceived corruption, favouritism and incompetence in the awarding of contracts. Our recommendations note that the UK’s procurement response remains a live issue with ongoing court cases and missing documentation and data. We have provided this information for law enforcement and the UK Government to take further action. A lack of emergency preparation was damaging

to the response and must be addressed, not just regarding physical stockpiles and supply chains but also in terms of having a well-informed, joined-up, and well-resourced workforce that had clear guidelines. Such preparation would have mitigated early issues in the pandemic, including a lack of price management and clear profiteering by some actors - issues which are also explored in this section. The issue of available data and information on suitable sources of supply, particularly in China, severely undermined the procurement response. Missing documentation, data-entry issues, and a general lack of transparency - including on FOI requests - must be improved if the UK does not want to repeat mistakes for future emergencies. Finally, the problems associated with the UK's emergency response are more than just procurement missteps and reflect something wider - the recent decline in good governance and political standards. The story of the pandemic response requires us to reflect on the conduct of Ministers, Members of Parliament, Members of the House of Lords, Special Advisors, political donors, and other actors. With severe consequences, the pandemic exposed the limit of our governance arrangements and, in some cases, went beyond it, making it clear that a stronger framework is required.

364.1 As part of our 'lessons learned' section, we will be highlighting the relevance of the Procurement Act 2023, which has gone some way to alter the UK procurement landscape since the pandemic. We will reference what we believe are its positive changes, shortfalls, and the potential of its regulations yet to be implemented.

General Reflections

365. We would like to take this opportunity to go beyond the information sought by the Inquiry for the purposes of this statement and provide broader reflections.

366. Firstly, we emphasise that resilient and effective emergency procurement systems are not just relevant for pandemics and health matters, but are also relevant for other emergencies. Whilst our full statement and recommendations derive from a pandemic situation, the UK Government must take this opportunity to ensure its emergency procurement response is fit for natural disasters, conflict and terrorism, technological and industrial accidents, humanitarian crises, and other infrastructure failings.

367. Further, a lesson-learning exercise should not be dispassionate and solely concerned with technical changes to the machinery of government or emergency processes. When these systems break down, as they did during the pandemic, there are human impacts on patients, care home residents and responders on the frontline that authorities must consider. Medical staff, already under pressure, were given equipment by the Government that did not meet NHS requirements nor kept them safe - nurses resorted to using layers of bin bags for protection. As outlined in our oral statement during the Preliminary Hearing for Module 5 on 6th February 2024, a member of our CP team, Peter Munro, spoke to a family member who had experience of using the equipment: *"It felt like we were wearing the equipment for appearance sake and to reassure our patients, rather than as something that would actually protect us."*

368. Moreover, there is a wider issue associated with these failures that the UK Anti-Corruption Coalition is also concerned about - the diminishing of public trust in politics. We believe some of the key failures in the procurement response were reflective of the former Government's wider failure to uphold high standards for those working at the very top in public life. This has contributed to the erosion of public trust in UK politics, which is now at record lows. Our Coalition's separate work on political integrity has, like other independent experts, identified serious failings in the rules and watchdogs for maintaining high standards in government.

369. Whilst we must account for other factors, quantitative and qualitative research undertaken by the UK Anti-Corruption Coalition in 2023 - in partnership with Survation - clearly demonstrates widespread public dissatisfaction with the way procurement was handled during the pandemic. Our research indicated that this was a major "cut-through" moment in UK politics regarding public trust in government and democracy. When asked to give their reasons for why their trust in government diminished generally, the two following answers were very reflective of our focus group findings, notwithstanding the impact of 'Partygate':

369.1 *"The corruption involved in the procurement of PPE during the Covid crisis. The awarding of contracts to individuals who apparently had no expertise but happened to be donors to the governing party."*

369.2 *“An example is the covid contracts handed out during the pandemic, where those who knew someone in the government could get them PPE even though they did not have any experience in that field.”*

370. The failure to protect medical staff, patients and residents of care homes, the failure to effectively use taxpayer money, and the egregious examples of profiteering and self-gain - particularly through the abuse of power and connections - have all cut through to the UK population. Module 5 of the Covid-19 Inquiry is not an appropriate place to fully set out the reasons for failing trust in UK politics, but it should be made clear that the public procurement response during the pandemic did nothing to correct these trends.

Lessons Learned 1: Ongoing and Further Investigations

371. Whilst Module 5 is reflecting on lessons to be learned, it should be communicated that the UK's procurement response remains a live issue. There is still an ongoing court case between the government and a PPE supplier, as well as ongoing criminal investigations. Effective enforcement, accountability, and justice are paramount if the UK is truly going to learn the lessons. As we have already highlighted in our transparency section, to this day, we estimate there are unpublished contracts for procurement services totalling well over £5bn. As highlighted in our statistics section, we found 135 Covid-19 related contracts, totalling £15.3 bn, that have three or more corruption risk indicators which merit further investigation. Our analysis provides an opportunity for others, including the Inquiry, the NAO, and the proposed Covid-19 Corruption Commissioner, to target their work more effectively. These investigations are crucial to establishing the facts, securing accountability for anyone involved in wrongdoing, and learning lessons for the future.

Lessons Learned 2: Preparation

372. This section does not cover emergency procurement preparation as it relates to anti-corruption but refers instead to a working-level good procurement practice. We have included further below recommendations on wider anti-corruption frameworks.

373. A lack of emergency preparedness, such as limited stockpiles, increases the potential gains from corrupt deals and leads to contractors expediting or omitting processes designed to guard against impropriety. However, the UK only had only two weeks of stockpiles of PPE when Covid-19 hit. The UK Government has since committed to stock sufficient for 120 days. However, we are concerned that this commitment might decline as time progresses. Vigilance and transparency are, therefore, key, as is the stockpiling of other vital goods.

374. There is little public evidence to suggest that there was a concerted effort prior to 2020 by UK public authorities to proactively map pandemic-related supply chains or set up procurement frameworks for Covid-19-like emergencies. The former option should identify contingency plans and potential supply chain bottlenecks, while the latter should enable authorities to have a list of pre-vetted qualified suppliers for critical products. These should be incorporated into the UK Government's lessons learned exercise from the pandemic.

375. We have the following recommendations regarding emergency preparedness:

375.1 **To help mitigate the risk of high-risk procurement during future pandemics, the UK should sustain stockpiling, ensuring consistent and long-term commitment to stockpiling essential supplies, irrespective of the immediate threat environment, to pre-emptively address future health emergencies.**

375.2 **The UK Government should develop pre-planned emergency frameworks for purchasing goods such as PPE and pre-vet suppliers that meet the needs of a long emergency.**

375.3 **Governments across the UK should systematically map critical supply chains to pinpoint bottlenecks and vulnerabilities that may pose challenges during extended emergencies. Additionally, they should identify suitable alternative suppliers and develop contingency plans, such as for when UK manufacturing can be repurposed.**

375.4 **The UK and Scottish Governments should supplement any regulation justifying emergency procedures with additional guidance to mitigate excessive use, including dynamic emergency procurement lists, routinely updated lists of products and specifications, services, and works that contracting authorities can**

justify procuring under emergency conditions on the basis of historical patterns and the evolving nature of crises.

376. The lack of a clear legal and common understanding amongst many public bodies as to what justifies non-competitive procurement undoubtedly contributed to its widespread and ongoing use during Covid-19. Under the old rules, contracting authorities could make awards without tendering in cases of extreme and unforeseen emergencies not caused by themselves. This was often pushed to and beyond its legal limits. In many cases, the significant use of non-competitive procurement by UK authorities highlights the need to better assist contracting authorities in determining whether their specific circumstances meet the criteria required for justifying non-competitive procedures. Given non-competitive contracting can significantly increase costs and risks, it would be a prudent investment of resources to reduce its use where reasonably practicable.
377. We found that almost two-thirds of all high-value UK Covid-19 contracts worth £30.7 bn lacked competition. A year into the pandemic, most of the contracts awarded by value continued to be given without competition – unlike EU countries, which quickly abandoned this practice.
378. The Procurement Act 2023 introduced a new power enabling ministers to set clearer criteria for bypassing competitive procurement when there is a danger to life. To avoid a repeat of the mistakes made during the pandemic, it is crucial that ministers provide guidelines that are as clear and precise as possible in the regulations governing emergency procedures.
379. As emergency preparation, to reduce the risk of contracting authorities over-relying on uncompetitive awards during emergency situations, ministers should, as much as possible, include the following in regulations made under Section 42 of the Procurement Act 2023. Define ‘cause for urgency’, clearly describing the specific emergency or event leading to the need for direct awards. Limit application and restrict direct awards exclusively to those addressing the immediate need stemming from the defined event. Finally, specify contract types and conditions, detailing as much as possible the types of contracts covered by the regulation, as well as list all conditions

and limitations. As the Procurement Act 2023 does not apply in Scotland, Scottish ministers should provide clarity over the justified use of emergency procurement powers in guidance.

380. The new Government has committed to strengthening capacity and capability across the public sector to both run, evaluate and engage the public and businesses on government mission objectives. This is presumably for procurement outside of emergency procedures, but it remains a key aspect of any emergency response. A strong workforce requires a focus on skills, capabilities, and capacity for digital transformation in complex environments, as well as putting key behaviours in place to transform public sector culture through open, collaborative, and constructive ways of working with honesty and integrity. It will need to bring together capable, multi-functional teams across the government to lead procurement.

381. We provide the following recommendations regarding capacity and capability.

381.1 **The UK Government should support the development of commercial and procurement personnel as professionals empowered to engage the market and individual suppliers to understand what is possible, encourage innovation, retain commercial acumen, and develop resilient supply chains. Regarding the new Government's objectives, it will need to rebuild its own commercial and collaborative capabilities, especially in contract management.**

381.2 **Wider training and support should be available to everyone across the government who gets involved in commercial activity, upskilling the legions of informal buyers across the public sector. The Procurement Act's Learning and Development offer should be substantially strengthened and supported with more resources and best practices to this end. An option worth exploring could be to charter a Royal Commission on digital transformation skills in government, working with relevant chartered institutes in the UK to better distil the common principles and practices across state, market and educational establishments for the 21st Century government.**

Lesson Learned 3: Profiteering and price management

382. Early in the pandemic, news reports focused on businesses and individuals receiving huge intermediary fees, large profits and charging high prices. The main implication was that they had unfairly gained from the crisis at the public's expense. There is evidence that, in significant instances, major contracting authorities did not consider the risk of excessive supplier profit or benchmark prices and over-relied on traders. Further, oversight bodies could not fully assess the risk of profiteering because of poor record-keeping by contracting bodies.

383. The public has a right to know who is benefiting from taxpayer funds spent on products that can mean life or death. Yet, authorities normally redact the cost of items, and there is no single place to find this information. In emergencies, the UK Government should require the disclosure of prices for critical products, as the World Health Organization (WHO) advises. This would add a layer of accountability and allow both the public and oversight bodies to spot questionable price increases. There are also substantial gaps in the readily available structured data on UK companies' annual accounts. While, in theory, this is available for some companies, it is not published by many and is difficult to consolidate and use.

384. Quick and easy access to these company accounts in a uniform format enables the public and authorities to efficiently evaluate potential suppliers for significant profit increases linked to public contracts. This could also help in identifying early warning signs in supplier profiles before granting a public contract, an advantage in emergencies where reviewing numerous PDFs is impractical. Companies House is proposing to move towards software-based filing of accounts, which would help deliver this reform. We welcome this development and encourage it to deliver this change as soon as reasonably practicable.

385. We have the following recommendations relating to price management.

385.1 To reduce the risk of excessive profiteering during emergency situations, the UK should undertake profiteering evaluations, particularly in emergencies. When a crisis may necessitate emergency procedures, contracting authorities should protect against suppliers seeking excess profits by price-benchmarking offers of supplies, consider the potential for undue profit margins and

incorporate factors such as ‘company size relative to contract value’ into their assessments.

385.2 The UK Government should consider legislating against profiteering during an emergency situation to dissuade companies from taking advantage of any desperate and urgent need for supplies. This has precedent and has been done in 37 US states. The Government should consider mandatory public price reporting for key products during emergencies, drawing on WHO guidelines and US anti-price gouging laws, to make it possible to identify and penalise excessive markups and to increase transparency.

385.3 As soon as possible, Companies House should require annual accounts to be submitted in an electronic format and published in structured data formats so it is easier for the public and relevant authorities to analyse anomalies.

386. It is not clear how contracting authorities considered bribery risks in pandemic-related procurement. This should be part of any future crisis preparedness and response plans. While the Procurement Act 2023 includes many mandatory grounds for excluding suppliers involved in economic crimes, it does not include companies failing to prevent bribery (Section 7 of the Bribery Act). Given this is a key offence under UK anti-bribery legislation and the equivalent failure to prevent tax evasion offence is included as a ground for mandatory exclusion, the omission of Section 7 seems illogical. Adding this as a ground for mandatory exclusion would act as a strong deterrence as it would bar suppliers from substantial public contracts if their associates commit bribery and they fail to prevent it.

387. To better detect and deter bribery in emergency supply chains, UK contracting authorities should incorporate bribery and corruption risk assessments and mitigation strategies into their procurement practices for crisis responses. The UK Government should also amend the Procurement Act 2023 at the earliest opportunity to incorporate Section 7 of the Bribery Act 2010 as grounds for mandatory exclusion, enhancing its ability to deter downstream bribery. Sections 1, 2, or 6 are included as mandatory exclusion grounds, and a failure to prevent the facilitation of tax evasion is also included in the Act, but the failure to prevent bribery in Section 7 is not.

388. Debarment and exclusion from procurement are potent anti-fraud and anti-corruption tools which protect the public purse from rogue actors and incentivise good corporate governance standards for suppliers. The government announced the creation of a central debarment register in the Procurement Act. Alongside the new debarment register, the Act introduces a new regime for excluding companies from public contracts that depart in significant ways from the current EU-based model. There has been very little use of exclusion in the UK to date. Despite some ongoing weaknesses in the regime – key amendments to the Bill were rejected by the government as it passed through Parliament. Ambitious use of this regime would significantly help tackle fraud and poor behaviour, which cause loss to the public purse, and incentivise better corporate governance among government contractors.

389. We have the following recommendations relating to debarment and exclusion.

389.1 **Government departments and local authorities should be able to act on credible evidence of fraud and corruption rather than have to wait for a conviction. While the Procurement Act will allow authorities to do so where they have evidence of modern slavery, human trafficking or cartel offences, inexplicably, it does not allow for it where they have evidence that a company has engaged in fraud, corruption or other economic crime. The government’s argument was that to do the latter would be “a new burden on those investigating suppliers...and on suppliers themselves”. The trouble with the government’s line on this is that waiting for a conviction for fraud or corruption is too late. Fraud prosecutions are at a record low, and investigations of fraud and corruption can take many years to conclude and prosecutions even longer. In the US debarment regime, officials can act on evidence rather than wait for a conviction.**

389.2 **The self-cleaning rules for when suppliers convicted of wrongdoing can contract should be clarified. Section 58(1) of the Procurement Act 2023 currently gives contracting authorities discretion when establishing whether circumstances giving rise to an exclusion are continuing or likely to occur again. A contracting authority may have regard to various matters, including (under section 58(1)(c)) commitments from the supplier or an associated person that steps will be taken to prevent the wrongdoing from continuing or happening again. Cabinet Office guidance considers commitments generally and provides**

that “*In the absence of any concrete action, commitments alone should not be sufficient evidence that misconduct is unlikely to occur again.*”

389.3 There are significant gaps in the Procurement Act in the list of corporate offences that form the basis of mandatory exclusion from public procurement. It is an anomaly that money laundering offences under the Proceeds of Crime Act are included as mandatory exclusion grounds, but criminal offences under the Money Laundering Regulations 2007 (MLRs) – which, as the conviction of NatWest bank for money laundering under the MLRs shows are an important means of holding companies to account for money laundering and failure to prevent it - are not. The same goes for sanctions evasion offences, with the Act containing no reference to criminal offences for sanctions evasion being grounds for mandatory exclusion.

Lesson Learned 4: Data problems and transparency

390. The UK’s current procurement transparency system is riven with inflated contract values, missing data, misspelt contractor and supplier names, and similar inaccuracies and relies on an antiquated transparency platform (Contracts Finder) introduced nine years ago. We also found widespread human error in procurement data, some of which inflated the value of contracts awarded by public bodies by tens of billions of pounds. These errors hinder accountability over the use of public funds and erode trust in public data. Much of this is caused by poor controls on data entry. Implementing stricter data entry controls and unique identifiers in the UK Government’s new procurement system would enhance data quality and support more comprehensive insights into the management of public funds.

391. We found critical flaws in how public bodies publish procurement data, meaning that the public does not know how much has actually been spent on payments to suppliers) against £48.1 bn of identifiable Covid-19 contracts. Information on a single contract is often scattered across various platforms: award data on procurement sites, supplier details on company registries, and payment records on a range of different websites. Combining this data is vital to understanding the distribution of public funds, but it is frequently unfeasible. Contract award data seldom provides supplier company

registration numbers, and it is invariably impossible for the public to see how much authorities have spent against contracts.

392. We also found duplicate procurement notices across the UK's five accessible procurement portals that together inflated procurement figures by £30bn. Getting a clear view of how much money is being spent by public bodies requires costly 'deduplication' to prevent double counting. To mitigate the risk of duplicate data, the UK Government should implement cross-referential identifiers for procurements published across different transparency portals.

393. The implementation guidance for the Procurement Act will propose the systematic use of the Open Contracting Data Standard (OCDS) - a global best practice open data scheme for the whole cycle of procurement - to link together all the UK's public contracting and procurement notices to provide a single source of truth across the UK's public purchasing. This will be vital for improved planning, purchasing, and performance. Done well, this turns transparency from something that is seen as being extractive - publishing data for someone else - to being valuable for users by providing their own data back to them in helpful ways.

394. Public sector organisations use different procurement systems which do not always allow for data to be easily shared with central purchasers or framework providers, and that most have been required by legislation and policy to publish procurement data using Cabinet Office systems, but compliance has been poor and there has been no enforcement. The Cabinet Office is introducing a Central Digital Platform to meet the new transparency requirements of the 2023 Procurement Act. The Central Digital Platform is intended to support the new procurement regime through three component parts: sign-in and registration, organisation information, and an "enhanced" Find a Tender Service. This new platform has the potential to deliver a significant increase in publicly available data, and by using agreed data standards, it could result in higher quality data that is more easily searched and analysed.

395. Any new 'Find A Tender Service' will need a significant investment to deliver on this promise of providing an authoritative source of information. The return on investment could be huge: it is estimated that potential savings from improved efficiency sit within

the range of £4-7.7 bn annually. If the public procurement landscape becomes easier to navigate for businesses, there are also better economic opportunities across the private sector and for overall GDP.

396. **The UK Government should include data entry controls in the new central digital procurement platform to reduce the risk of error and add a feedback mechanism to allow the public to report mistakes. It should also flag overdue notices. The Government should also work with governments across the UK to incorporate a unique identifier system for contracting authorities across all procurement databases so that this data is much easier to browse and search. To mitigate the risk of duplicate data, the UK Government should implement cross-referential identifiers for procurements published across different transparency portals.**

397. When procurement information is not published proactively, the public can turn to FOI requests. However, UK public bodies have increasingly avoided or postponed answering these, a practice that grew notably during Covid-19. In 2021, a committee started looking into the use of a 'clearing house' – a unit in the Cabinet Office that allegedly coordinated the blocking of FOI releases. The UK Government mostly dismissed the committee findings and the Information Commissioner's Office (ICO) offer of an audit, turning instead to an internally commissioned review. Given the ICOs expertise in this area and its independence from government, it should be allowed to assess impartially whether Whitehall has truly reformed its FOI practices or merely re-branded them.

398. Incomplete responses to FOI requests for procurement information can also stem from the vague language in the Freedom of Information Act. The Act only covers data that suppliers hold 'on behalf' of a public body, a term whose meaning is often unclear and which protects suppliers from showing information of public importance. In 2015, the Information Commissioner recommended broadening the Freedom of Information Act to include all supplier-held contract details, making them available through FOI requests, with similar calls being made in Scotland.

399. **To help restore the public’s right to know about the management of public money, the Cabinet Office should agree to a voluntary audit by the ICO on its FOI request policies, formerly known as the Clearing House. We note the review completed in 2023 by Sue Langley.¹⁶⁵ The UK and Scottish Governments should amend the relevant Freedom of Information Acts to include all information that contractors hold related to contracts for providing public goods, works and services over a reasonable threshold.**

400. Contract documents are an important part of providing accountability over the terms of a procurement. They can reveal issues like biased or large advance payments or overly broad indemnity clauses, which are indicators of foul play. However, the 2023 Procurement Act set a high £5 million publication threshold without clear justification from the UK Government. Had this rule been in place from 2020, we calculate that authorities would not have had to publish £2.8 bn worth of Covid-19 contracts. Additionally, the Act mandates authorities to publish contract award notices before contracts are effective but does not require the same of the contract documents themselves. Adopting this approach would provide a strong incentive for compliance with the law and increase accountability for significant contracts, which typically have the capacity to fulfil these requirements.

401. The government did not use its own data from Contracts Finder to monitor compliance with the requirement to publish contract documents fully in accordance with its own policy guidance. As a result, contract documents were either never published or published late, and the majority of contracts were only partially published, omitting key information that should have been public in accordance with the government's own policies and guidance.

402. We found 124 high-risk contracts worth £11.8bn that were published after the legal disclosure deadline, six of which totalling £706.8 million were only published a year after their award. Late publication of high-risk contracts reflected a more general collapse in compliance with legal timelines for disclosure, with public bodies reporting a total of 1,764

¹⁶⁵ <https://www.gov.uk/government/publications/cabinet-office-and-freedom-of-information/freedom-of-information-foi-clearing-house-review-html>

high-value contracts, with a combined value of £30.1 bn, after the 30-day legal deadline (63 per cent of all Covid-19 contracts by value). One hundred and forty-one of these, worth a total of £5bn, were published more than a year after their award. This has done little to provide assurance over the use of public funds and has fueled suspicion that contracting authorities had something to hide.

403. The Procurement Act 2023 requires contracting authorities to publish information about the award of a contract – whether through competitive or non-competitive processes – before it can enter into a contract with the supplier. In theory, this should provide a stronger incentive for contracting authorities to publish details of their procurement on time. However, given that the previous requirement was also a legal obligation that was far too often ignored, it remains to be seen whether these new rules will work as intended.

404. **To help improve the timeliness of public access to information about the use of public money, parliaments and governments across the UK should monitor whether contracting authorities are complying with their obligation to publish contract award information on time and take steps to reduce delays if disclosures are still late. To improve business and public access to information about public sector contracts, the UK should also reduce the threshold for publishing copies of contracts. This should preferably be set to the thresholds in Schedule 1 of the Act but should be no more than £2 million. The UK Government should introduce reforms to make activating a contract valued above the publication threshold contingent on its publication.**

Lesson Learned 5: Establishing facts about the High-Priority Lane

405. From the anti-corruption perspective, we believe that the implementation of the HPL, or 'VIP Lane', was the most egregious error in pandemic procurement. Ideally, it should, therefore, be used as a global case study of how authorities should not execute emergency procurement. It should be the ultimate 'lesson learned'.

406. The use of the HPL empowered unqualified politicians to prioritise favoured companies during a period in which conflicts of interest were managed poorly. That this route was not available to non-Conservative politicians nor expert groups such as the

British Medical Association, despite the latter being able to refer qualified companies eager to provide much-needed medical supplies, amounts to systemic corruption in the UK Government's approach to procuring certain goods during the pandemic. This practice has done untold damage to trust in the integrity of the pandemic response and exposed the UK Government to costly and unnecessary legal battles.

407. It is only through a patchwork of litigation, official reports, media reports, investigative journalism, and belated government disclosures that we know the details of those passing through the HPLs for PPE and testing. Even now, the picture we have could be incomplete and would benefit from further interrogation by the UK Covid-19 inquiry. Ideally, it would clarify the scale and operation of the various HPLs for the public record.

408. The UK Government can distance itself from past errors by disclosing any conflicts of interest between suppliers and political referrers. Further, in future emergencies, open publication of assessment processes for supplier offers and potential conflicts of interest would guard against a recurrence of perceptions that cronyism determines the outcome of contracts, not merit.

409. **We recommend that the Inquiry should provide an independent summary of the relevant facts regarding the operation of the HPL prioritising supplier offers during the pandemic. This should include which contracts were prioritised and awarded through the 'VIP' lane for PPE and high-priority lane for testing; correspondence relating to referrals through the PPE and testing priority lanes; and witness statements from those involved in the rationale and operation of these lanes, and any concerns they had about impropriety. To better prioritise supply offers in future pandemics, governments across the UK should create and openly disseminate clear guidelines for assessing and prioritising offers of goods and services, including managing conflicts of interest and avoiding systemic political bias in the award of contracts.**

Lesson Learned 6: Institutional Backstops

410. New powers in the Procurement Act 2023 could reduce the risk of unjustifiable uncompetitive contract awards, yet they lack robust parliamentary oversight and,

therefore, remain open to abuse. Under these new powers, ministers can define types of goods and services that can be bought through uncompetitive processes in order to protect lives. This has the potential to improve the previous regulations, which left too much ambiguity as to when contracting authorities could use emergency procedures. However, these powers contain insufficient parliamentary safeguards against abuse, with ministers alone able to repeal them and no requirement for the government to justify their ongoing use. Fixing these issues should reduce the potential for misuse of these powers, cut down on costly legal battles, and provide greater assurance over the management of public funds.

411. **To provide stronger checks and balances against executive abuse of new emergency powers, the UK Government should legislate to introduce a sunset clause for emergency procurement powers. Any emergency procurement regulation made under Section 42 of the Procurement Act 2023 should automatically expire (i.e. include a 'sunset' clause) after 60 days from taking effect, with the affirmative procedure only usable twice within the same year for an emergency response. Any renewal should require a ministerial statement to Parliament detailing the continued need for the order, followed by an affirmative procedure in both Houses of Parliament. There should also be a legal requirement for the UK Government to commission and publish an independent review of the use of these powers no later than 12 months after the last crisis period recognised under these powers.**

Lesson Learned 7: Anti-Corruption Frameworks for the political layer

412. Our Coalition's expertise extends beyond corruption risk in public procurement - we also work on the issues of corruption in politics, standards in public life, and political integrity. The problems associated with the UK's emergency response are more than just procurement missteps and reflect something wider - the decline in good governance and political standards throughout the relevant period.
413. Module 5 of the Inquiry cannot omit recommendations relating to safeguards against impropriety in public office. The story of the pandemic response, especially as it relates to procurement, requires us to reflect on the conduct of Ministers, Members of

Parliament, Members of the House of Lords, Special Advisors, political donors, and other actors. For years within Westminster and Whitehall, it has been well understood that the UK's standards framework is extremely frail, relying on the 'good chaps theory' - an assumption that political actors will regulate themselves in terms of norms, conventions, and good behaviour. However, with severe consequences, the pandemic exposed the limit of this arrangement, making it clear that a stronger framework is required.

414. At the time of writing, a new government has committed to restoring public service in politics and a new package of reforms to rebuild confidence in our political system, which includes establishing a new Ethics and Integrity Commission. However, these details remain unclear.

Ethical standards

415. In November 2021, the Committee on Standards in Public Life (CSPL) – an independent and cross-party public body advising the Prime Minister on ethical standards in public life for the past 30 years – made a series of recommendations to upgrade the framework for regulating public standards. CSPL concluded, following wide consultation with experts and stakeholders, that the current framework is not functioning as well as it should.

415.1 *“From the evidence we have taken during our review it has become clear that a system of standards regulation which relies on convention is no longer satisfactory. To address this, we recommend that ethics regulators and the codes they enforce should have a basis in primary legislation, and that government has a more thorough and rigorous compliance function.*

415.2 *The arrangements to uphold ethical standards in government have come under close scrutiny and significant criticism in recent months. Maintaining high standards requires vigilance and leadership. We believe our recommendations point to a necessary programme of reform to restore public confidence in the regulation of ethical standards in government.”*

416. In July 2023, the government responded to the committee, choosing to recognise less than half of its recommendations - with particular interest in recommendations with less ambition. Many of the recommendations reflect our own recommendations below.

417. Repeated impropriety by ministers during the pandemic, including, in some cases, the Prime Minister and the lack of any meaningful accountability, highlight the ongoing inadequacy of current checks and balances on abuses of high office. Since 2015, we have recommended that the Prime Minister enhances the autonomy and powers of their Independent Adviser on Ministerial Interests, who, in theory, helps ensure compliance with the Prime Minister's ministerial code but has insufficient powers and remit to do so. The new Labour government committed to allowing the Independent Adviser to initiate their own investigations and to establish an Ethics and Integrity Commission. However, Labour has not yet accepted recommendations to put the Independent Adviser and other standards watchdogs into legislation - and the remit and responsibilities of its proposed Commission remain unclear. In any event, the individual or body tasked with monitoring and ensuring compliance with the Ministerial Code should have the following:

417.1 statutory footing, to provide greater clarity over their role, more independence from government, and to reduce the risk of its dissolution,

417.2 an open and competitive appointments process, so the postholder is not subject to the patronage of the Prime Minister,

417.3 operational independence to carry out its functions without fear or favour,

417.4 adequate resources and powers to provide advice and guidance to ministers, as well as to conduct thorough investigations into suspected breaches of the Ministerial Code,

417.5 accountability to parliament with independent oversight of its activities and robust governance arrangements,

417.6 a high level of transparency, including through publishing its minutes, policies, procedures, annual reports and other documentation.

418. **The government must embed the independence and resilience of the Advisory Committee on Business Appointments (ACoBA), the Independent Adviser on Ministers' Interests, and the Public Appointments Commissioner by placing them - and the rules and codes they oversee - on a statutory footing.**

419. **This includes the Ministerial Code, which should be reconstituted as a code of conduct on ethical standards, with a statutory requirement for the Prime Minister to issue it – similar to the code of conduct for the civil service – to prevent it being discarded or disregarded and to give it independence from government. The government should ensure robust, independent and accountable oversight of the Ministerial Code in accordance with the principles set out above.**

Conflicts of Interest

420. The Procurement Act, which was passed after the relevant period, introduced changes to the UK's regime for managing conflicts of interest in public procurement, as set out below. The Act was due to take effect in October 2024, but in September 2024, the government delayed its commencement to February 2025. The Act fell short of fully implementing recommendations made in the various independent reviews into procurement, two reports by Sir Nigel Boardman commissioned by the government, and a government review of corruption and fraud in local government procurement published in June 2020.

421. Section 81 of the Act requires contracting authorities to take all reasonable steps to identify and keep under review any conflict of interest or potential conflict in relation to a procurement. The requirement to take steps to identify in section 81 is broadly similar to the requirement under regulation 24 of the PCRs. The Act does not specify the steps that authorities must take to identify a conflict or potential conflict, but Cabinet Office guidance issued in July 2024 sets out examples of steps that might be taken.

422. Section 82 of the Act requires contracting authorities to take all reasonable steps to ensure that a conflict of interest does not put a supplier at an unfair advantage or disadvantage in a procurement; if a conflict creates an unfair advantage for a supplier and that cannot be avoided, the supplier must be excluded. This changes the position under regulation 57(8)(e) of the PCRs, which provided for discretionary exclusion where a conflict of interest could not be effectively remedied by less intrusive means.

423. Section 83 of the Act requires contracting authorities to prepare a conflict of interest assessment before publishing a tender, transparency notice or dynamic market notice. A contracting authority must keep any conflict assessments under review, revise them as necessary and confirm, when publishing a relevant notice, that a conflict assessment has been prepared and revised. Cabinet Office guidance explains that this *“does not mean that the actual conflicts assessment must be published”*.

424. As the HPL and Covid procurement scandals have shown, indirect influence over procurement decisions poses a real risk to public perceptions about the fairness and integrity of procurement. The fact that a Minister, special adviser or Member of Parliament referring a company for a contract appears to have been a consideration by procurement officials in rewarding contracts, underlines the need for robust rules that capture a wide range of potential influence. This includes politicians who may seek to influence government procurement decisions in favour of their private interests. The Act does not specify what the term ‘influences’ may include, and it is not clear how contracting authorities will interpret the term.

425. **In order to maintain good governance and public trust in procurement, the Procurement Act should require contracting authorities to publish their conflicts assessments for major contract awards rather than just confirm that one has been prepared and revised, including outside of emergency procurement procedures.**

426. **To ensure that it is interpreted widely and captures a wide range of influence, the Procurement Act should contain specific language to reflect the possibility of ‘indirect influence’, which might include lobbying or financial interests, and this should be reflected in corresponding guidance from the Cabinet Office.**

427. **Suppliers should be required to submit a conflict of interest declaration, including a statement on whether they are employing or retaining (whether in a consultancy, advisory or other role) any individuals who have held ministerial or senior office within the civil service in the past 2 years, as well as whether any current public official (including ministers, civil servants, and parliamentarians) have a financial interest in the company. This would reflect Boardman’s**

recommendation that “suppliers should be required to follow similar processes regarding declarations of actual or perceived conflicts of interest at the outset of a procurement, with appropriate sanctions for non-compliance.”

428. Suppliers should be required to provide written confirmation of their compliance with the Suppliers Code of Conduct or any future replacement to mitigate against any real or perceived conflict of interest. This requirement is not in the Procurement Act, and existing requirements for suppliers to submit conflict of interest declarations are based on voluntary compliance with the Supplier Code of Conduct.

429. Reviews that have been carried out by Nigel Boardman and other authorities recommended a raft of measures to ensure more robust management of conflicts of interest across government procurement. The Act should include the key recommendation that public authorities maintain clear documentation on how they have established and used procedures that may result in unequal treatment of suppliers.

430. To ensure public scrutiny over how contracting authorities are implementing the new conflict of interest provisions, the Procurement Act should require each contracting authority to issue a public report on an annual basis, setting out how they have managed conflicts of interest in procurement. The Procurement Review Unit should also publish an annual summary of how they are providing oversight on the investigation of conflicts of interest.

431. The government should develop a centralised database of standardised conflict of interest recommendations to be made available for those making procurement and contract decisions; and departments should develop robust conflict of interest guidance and policies, building on the guidance published by the Cabinet Office, to reflect their context and cover all aspects of identifying, managing, recording and mitigating conflicts of interest. The June 2020 local government procurement review recommended that conflict of interest declarations should be centrally collated in an electronic database and accessible

as required.¹⁶⁶ Meanwhile, Boardman recommended that declarations of interests should be recorded and logged alongside the departmental gift register and, where appropriate, made available to those responsible for procurement and contract management.¹⁶⁷

Lobbying transparency

432. A series of scandals in recent years have exposed significant weaknesses in the UK's system for lobbying transparency. The UK's standards landscape must be brought up to date to ensure that integrity and ethics in government are regulated in a way that befits a modern democracy; strengthening the Lobbying Act is a central plank of that process. Enhancing the UK's system for lobbying would ensure greater transparency and equal access to government, with positive consequences for public decision-making and the use of public resources.

433. **The previous government committed to develop a single database where all departmental transparency data will be published. The new government should publish a timeline for this database and for when the government will move departments' transparency publications from a quarterly to a monthly basis.**

434. **Expand the scope of the Lobbying Act to include within the scope of lobbying rules all those who are engaged in lobbying, including in-house lobbyists, not just consultants, as recommended by lobby trade bodies; as well as including lobbying of special advisers, reflecting the view of independent expert bodies that special advisers play a crucial role in formulating government policy and influencing ministers.**

¹⁶⁶ Ministry of Housing, Communities and Local Government June 2020 Review into the risks of fraud and corruption in local government procurement A commitment from the UK Anti-Corruption Strategy 2017-2022
https://assets.publishing.service.gov.uk/media/5ede321ce90e073a07056d08/Fraud_and_corruption_risks_in_local_government_procurement_FINAL.pdf

¹⁶⁷ Boardman Report on Cabinet Office Communications Procurement
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942347/Boardman_Report_on_Cabinet_Office_Communications_Procurement_FINAL__2_.pdf

435. Close the loophole by which informal lobbying is not disclosed in departments' transparency releases by including within scope any instant messaging, virtual meetings, phone calls and emails when the representations to the government are "serious, premeditated, and credible, or are given substantive consideration by ministers, special advisers or senior civil servants".
436. As recommended by CSPL, guidance for public officials on lobbying should remind them of the principle of equality of access and the need to proactively consider, after meetings, whether a balance of views should be obtained. Departments should develop ways to level the playing field and ensure that they consult widely and gather a diverse range of views, rather than formulate decisions based on the most effective lobbying; and set out the steps they have taken to level the playing field in their annual reports and accounts.
437. There should be greater accountability for the quality of departmental transparency releases in order to improve standards; and where the rules on publication of lobbying data are broken, suitable sanctions for non-compliance.
438. The government should implement the Information Commissioner's recommendation, made in July 2022, for a "strategic review into how different, non-corporate communication channels are being used across Government", including whether the UK should introduce a 'duty to document'.
439. Close key loopholes in the regime for lobbying transparency, including scrapping the requirement to be registered for VAT in order to be a consultant lobbyist and removing the 'incidental lobbying exemption' as recommended by lobby trade bodies; and require registered lobbyists to meet a statutory code of conduct, rather than the current voluntary codes, and give the Registrar of Lobbyists greater powers in order to impose tougher penalties for non-compliance with the rules.

Whistleblowing

440. **The UK must address gaps surrounding whistleblowing in the Civil Service by improving data collection on internal whistleblowing, exit interviews following investigations, and consistent standards and practices across departments.**

Rogue conduct in Parliament

441. **The new Modernisation Committee should be tasked with reforming procedures, driving up standards, and preventing rogue conduct in Parliament. It should create and enforce rules that prohibit paid lobbying by MPs to avoid the perception or reality that those in public office are acting on behalf of outside private interests. The Committee should also put greater limits on parliamentarians' outside activities to prevent conflicts of interest between elected roles and second jobs. Exceptions would include roles that require the maintenance of professional registrations, political activity, or providing an essential public service.**

Lesson Learned 8: Enhancing the laws and enforcement

442. Despite the huge government resources expended on addressing the Covid-19 pandemic, there was no dedicated investigative resource put in place to coordinate a response to combat fraud and corruption against the government. With such huge sums of government money being made available, extensive fraudulent activity was inevitable and predictable. A large number of different agencies were engaged to look at specific areas, as set out above, with some degree of responsibility for addressing potential fraudulent activity during the pandemic, but there did not appear to be a strategic direction by the government or coordination of their response. Although there were dedicated resources in some areas, there was inconsistency in approach. There was no dedicated investigative and prosecution resource directed towards the key areas surrounding the procurement of PPE, hospital ventilators and LFD tests - this is something that the Inquiry should look into. Most law enforcement resources in the fraud arena were directed towards criminality, which affected individual victims rather than that which impacted government

funds. Prosecutions have, therefore, been few despite the high likelihood of fraud. Swift investigative and prosecutorial action would have helped deter further criminal action.

443. There is no doubt that more could have been achieved in combatting both fraud and corruption during the pandemic. The creation of an anti-fraud task force publicly announced and with a high profile and adequate resources, would have had a deterrent effect. Such a task force could have included procurement specialists and counter-fraud professionals from the Cabinet Office, DHSC and other government departments, who could dip-sample contracts and scrutinise anomalous cases. It could also have included law enforcement officers from the NCA, SFO, HMRC and police, as well as specialist fraud lawyers from the SFO and CPS. The primary purpose would have been to deter criminality but also identify actual criminality as it happened and refer for investigation and rapid prosecution. That would have acted as an additional deterrent.

444. This is a well-established model in the US, put in place when major Federal Government emergency spending is needed, for instance, in response to Hurricane Katrina in 2005.¹⁶⁸ It was also implemented in the US during the Covid-19 crisis. In May 2021, the newly appointed Attorney General Merrick Garland established the Covid-19 Fraud Enforcement Task Force to marshal resources and coordinate law enforcement activity across the US Government. On 23 August, they reported that they had charged over 3,000 criminals with offences and recovered \$1.4bn of Covid-19 relief funds.

445. There is no history of UK law enforcement activity of this kind. As a result, UK criminal investigations arising from Covid-19 fraud have been limited in number and developed in a patchwork manner. They have been conducted retrospectively by different agencies, often involving lengthy investigative exercises but without any sense of coordination across agencies. For instance, investigations into serious, organised criminal attacks on government business grants, which really should have been dealt with in the policing world, were contracted out to NATIS, an investigative agency which is part of Thurrock Borough Council, as set out further above.

¹⁶⁸ Hurricane Katrina Fraud Task Force A Progress Report to the Attorney General October 2005
<https://www.justice.gov/sites/default/files/criminal-disasters/legacy/2012/07/30/KatrinaProgressReport10-18-05.pdf>

446. The appointment of a Covid Counter-Fraud Commissioner is an important step forward in revisiting the issues around Government contracting and expenditure during the pandemic. At present, the position is for a fixed term of 12 months, but that should be extended if the chosen Commissioner can establish themselves as a bulwark against public sector fraud in the future. The job description highlights that the “Commissioner will review losses of public money to fraud, error and underperforming contracts during the Covid-19 pandemic, with an initial focus on contracts for personal protective equipment (PPE).……The Commissioner will also receive assessments of fraud recovery work to date in other major Covid schemes such as Furlough, Bounce Back Loans, Business Support Grants, Eat Out to Help Out and Covid-era Universal Credit fraud.” The role envisages looking back at past expenditures during the Covid pandemic but also providing lessons and recommendations for the future. It is essential that the Commissioner is given the staff, other resources and institutional support they need to perform the role effectively and to galvanise the relevant agencies and departments.

New corruption offences

447. The growing catalogue of political and procurement scandals in the UK has led to an increasing recognition that the UK does not have an effective regime for enforcing and deterring domestic corruption. The United Nations Convention on Anti-Corruption (UNCAC) offences of trading in influence, abuse of functions and illicit enrichment, set out above, would have been crucial in tackling the more diffuse forms of corrupt activity that took place during the pandemic and would ensure those who commit serious abuses of power for private gain can be held criminally accountable. There also is an emerging understanding and appetite within law enforcement for the need to have a lead agency for stronger enforcement of domestic corruption. In addition, UK law enforcement currently finds it difficult to provide effective mutual legal assistance to countries which are seeking to investigate or enforce these non-mandatory offences, as there is no equivalent offence in the UK.

448. There is no current statutory criminal offence of corruption. The closest offence, misconduct in public office (MIPO), is a very difficult offence to prove with a variety of

elements: a public officer acting as such; wilfully neglects to perform their duty and/or wilfully misconducts themselves; to such a degree as to amount to an abuse of the public's trust in the office holder; without reasonable excuse or justification. MIPO is a common law offence and carries a maximum sentence of life imprisonment.

449. MIPO is an inadequate protection against corruption because the offence has elements with significant complexities around definition and a very high standard of proof. It has attracted academic and judicial criticism, and the Law Commission has twice recommended replacing it with statutory offences, most recently in 2020.¹⁶⁹ The Law Commission's 2020 recommendation is to replace misconduct in public office with two offences:

- a. *An offence of corruption in public office: which would apply where a public office holder knowingly uses or fails to use their public position or power for the purpose of achieving a benefit or detriment, where that behaviour would be considered seriously improper by a "reasonable person". A defendant to this offence will have a defence if they can demonstrate that their conduct was, in all the circumstances, in the public interest.*
- b. *An offence of breach of duty in public office: which would apply where a public office holder is subject to and aware of a duty to prevent death or serious injury that arises only by virtue of the functions of the public office, they breach that duty, and in doing so are reckless as to the risk of death or serious injury.*

450. We broadly support the Law Commission's recommendations on the two replacement offences and the additional recommendations for statutory definitions of the various elements of the offences. The proposed new corruption offence would still require proof of the following elements, but the ability to define those elements in the statute and accompanying guidance would make the corruption offence clearer and simpler to understand:

450.1 *that the defendant is, and knows he or she is, a public office holder;*

¹⁶⁹ <https://s3-eu-west-2.amazonaws.com/cloud-platform->

[e218f50a4812967ba1215eaecede923f/uploads/sites/30/2020/12/Misconduct-in-public-office-WEB11.pdf](https://s3-eu-west-2.amazonaws.com/cloud-platform-e218f50a4812967ba1215eaecede923f/uploads/sites/30/2020/12/Misconduct-in-public-office-WEB11.pdf)

- 450.2 *the defendant uses or fails to use his or her public position or power;*
450.3 *for the purpose of achieving a benefit or detriment;*
450.4 *a reasonable person would consider the use or failure seriously improper;*
450.5 *the defendant realised that a reasonable person would regard it as such,¹⁷⁰ and*
450.6 *the defendant is not able to prove that their conduct was, in all the circumstances, in the public interest.*

451. **The government should repeal the offence of misconduct in public office and replace it with two statutory offences, as recommended by the Law Commission: corruption in public office and breach of duty in public office. To the extent that the offences proposed by the Law Commission do not encompass the elements of the non-mandatory corruption offences in Articles 18, 19 and 20 of UNCAC - abuse of function, trading in influence and illicit enrichment - the government should bring forward legislation to also give effect to those offences.**

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed:

Personal Data

Dated:

31st January 2025

¹⁷⁰ On this specific element, there is disagreement with the Law Commission about the level of subjectivity.