

Witness name: Clare Gibbs

Statement No.: First

Exhibits: 363

Dated: 20 December 2024

UK COVID-19 INQUIRY

CORPORATE WITNESS STATEMENT OF CLARE GIBBS

I, Clare Gibbs, will say as follows:

1. SECTION 1: INTRODUCTION AND EXECUTIVE SUMMARY

Introduction

- 1.1 This corporate witness statement is produced to address queries that have been raised in a Request for Evidence pursuant to Rule 9 of the Inquiry Rules 2006 and sent to the Cabinet Office on 31 May 2024 (the 'Rule 9'). The statement has been prepared with the assistance of Counsel and lawyers at the Government Legal Department. My statement draws in part on my direct experience, as well as on papers and accounts provided by others who worked in the Cabinet Office including No.10 at the time.

Introduction to the Author

- 1.2 I am the joint interim Government Chief Commercial Officer and Director of Markets, Sourcing and Suppliers, in the Government Commercial Function Central Commercial Teams in the Cabinet Office. I joined the Cabinet Office in 2017 and I was appointed as Director and Senior Commercial Specialist in 2019 after an open and fair recruitment process.
- 1.3 On joining the Cabinet Office in 2017, I was responsible for preparing government departments for the collapse of Carillion and the transfer of service delivery to new providers. Following this, I led a multifunctional team to develop the Sourcing Playbook, and subsequent suite of Playbooks. In my current role as Director for Markets, Sourcing and Suppliers, I am responsible for the development and implementation of the Playbooks and the Strategic Supplier Relationship Management Programme, Strategic Partnering Programme and Crown Representatives

Programme. During the pandemic, I provided leadership to the Ventilator Challenge, overseeing the day-to-day operations of the programme.

Executive Summary

- 1.4 This supplementary corporate statement should be read alongside the Cabinet Office's first corporate statement for Module 5, that of Gareth Rhys Williams. Alongside answering questions from the Rule 9, this statement also addresses a range of more detailed follow up queries from the Inquiry from that corporate statement.
- 1.5 The statement is divided into the following sections:
- 1.6 Section 2 provides background information on the structures and role of the Cabinet Office, including its general role, responsibilities and the core functions it undertakes at the centre of government. It explains the governance structures that existed in the Cabinet Office over the course of the pandemic, how these evolved over the period and how these structures interacted with other areas of government working to procure healthcare equipment and supplies as part of the response to the pandemic. This section covers information on the commercial structures and the allocation of resources for procurement activity across PPE, testing and the Ventilator Challenge during the pandemic response. Finally, the section describes some of the other teams and structures that existed in the Cabinet Office during the pandemic and some of the wider work on which the Inquiry has requested further information.
- 1.7 Section 3 builds on the information provided in the first Cabinet Office corporate statement to Module 5 on the role of the Cabinet Office and especially that of the Government Commercial Function in PPE procurement during the pandemic. This section covers matters around the modelling of demand and estimating how much PPE was required, capacity and resilience. This section goes on to provide further detail on the High Priority Lane and wider issues such as pricing, managing conflicts of interest and due diligence.
- 1.8 Section 4 provides further information on Cabinet Office activity with procurement in connection with mass testing during the pandemic response. The section explains the context of some of the policy decisions taken with regard to testing and operational delivery alongside the procurement activities delivered by commercial experts in the Government Commercial Function. The section provides some detail on Operation Moonshot and mass testing, including the governance of and monitoring of the initiatives to test the population during the pandemic.

- 1.9 Section 5 provides further detail on the Cabinet Office role in the Ventilator Challenge during the pandemic, supplementary to that already provided through its first corporate statement to Module 5. This detail includes information on the consideration of intellectual property, supply chains, and conflicts of interest.
- 1.10 Section 6 covers a range of cross-cutting issues related to procurement about which the Inquiry has asked for further detail. This includes further information on a number of topics covered in depth in the first Cabinet Office corporate statement to Module 5. The section covers general procurement regulations, wider commercial guidance and spend controls. It explains processes around the management of outside interests for ministers and civil servants through the Ministerial and Civil Service codes.

2. SECTION 2: CABINET OFFICE STRUCTURES, ROLE, PEOPLE AND PROCESSES

- 2.1. This section of this corporate witness statement draws on and repeats material included in the previous Cabinet Office corporate witness statements to Modules 1 and 2 of the Inquiry, including Alex Chisholm's prepared for Module 1 and Simon Case's for Module 2.¹

General role and responsibilities

- 2.2. The Cabinet Office is a ministerial department of His Majesty's Government, responsible for supporting the Prime Minister and the Cabinet and the functioning of government more widely. In particular, the Cabinet Office:
- 2.2.1. supports collective government decision making through Cabinet and the committee system, brokering decisions between departments and helping to ensure the effective development and coordination of policy decisions;
 - 2.2.2. promotes efficiency and reform across government through innovation, better procurement and project management, and by transforming the delivery of services;
 - 2.2.3. Is responsible for monitoring and driving the delivery of priorities by other departments, centrally overseeing implementation and holding departments to account;
 - 2.2.4. acts as the corporate headquarters for the government as a whole, in partnership with HM Treasury; and
 - 2.2.5. leads on political and constitutional reform.
- 2.3. Alongside the principal responsibilities outlined above, the Cabinet Office houses teams that look at cross-cutting policy issues that affect the whole of government or do not sit neatly within a department. Between 2009-2020, the Cabinet Office's additional responsibilities included: UK Governance, which included acting as the lead government department for intergovernmental relations between the Government and the devolved administrations; coordination of cross-government borders work and policy through the Border and Protocol Delivery Group; ownership of the strategic framework for arm's length bodies; and Government Equalities. Furthermore, the Cabinet Office held (and still holds) responsibility for a range of conduct and policy

¹ CG/1 - INQ000099517; CG/2 - INQ000092893

issues relating to the Ministerial, Civil Service and Special Adviser Codes, and for providing advice to all government departments on standards and ethics issues. Further detail on Cabinet Office committees and official support structures during the pandemic is provided in paragraph 2.21-2.31.

Core functions and structures

- 2.4. The Cabinet Office's role in respect of collective decision-making is managed by the Cabinet Secretariat, which reports through the Cabinet Secretary to the Prime Minister. It oversees the policy, practice and precedent underpinning cabinet collective responsibility. The Cabinet Secretary is the senior official for Cabinet, and as set out in the Cabinet Manual, "is responsible for the smooth running of Cabinet meetings and for preparing records of its discussions and decisions".²
- 2.5. As the Cabinet Manual sets out, "Cabinet is the ultimate decision-making body of government. The purpose of Cabinet and its committees is to provide a framework for Ministers to consider and make collective decisions on policy issues".
- 2.6. The Cabinet Manual continues: "The Cabinet system of government is based on the principle of collective responsibility. All government ministers are bound by the collective decisions of Cabinet, save where it is explicitly set aside, and carry joint responsibility for all the Government's policies and decisions". "Collective agreement can be sought at a Cabinet or Cabinet committee meeting or through ministerial correspondence". The Cabinet Manual does not give definitive criteria for issues which engage collective responsibility, but makes clear that "proposals will require consideration by a Cabinet committee if: the issue is likely to lead to significant public comment or criticism; the subject matter affects more than one department; and/or there is an unresolved conflict between departments".
- 2.7. The Prime Minister is advised and supported by officials and special advisers (temporary civil servants appointed directly by ministers who can, in addition to other roles, provide political support) based in No.10. As the Government's website explains, together they help the Prime Minister "to establish and deliver the Government's overall strategy and policy priorities, and to communicate the Government's policies to Parliament, the public and international audiences"³.
- 2.8. Teams based in No.10 are part of the Cabinet Office. Teams based in No.10 ordinarily include (but are not limited to) a private office, the 'PM Post' team and a press office.

² The Cabinet Manual is available at CG/3 - INQ000182315

³ CG/4 - INQ000498357

The precise configuration of teams based in No.10 evolves over time at the discretion of the Prime Minister. During the pandemic period it also housed a policy unit (throughout), a data and science unit (from summer 2020) and a delivery unit (from spring 2021). In addition, an interim COVID-19 team was set up in No.10 in March 2020 (and subsequently merged into the COVID-19 Taskforce).

- 2.9. The Cabinet Office is responsible for coordinating the Government's response to crises, working closely with the relevant lead government departments. The Government maintains the capability to respond to the range of hazards and threats facing the country through the activation of central response arrangements. This mechanism is known as COBR, which comes from 'Cabinet Office Briefing Rooms', the physical location in Westminster where COBR meetings usually take place.
- 2.10. The Cabinet Manual explains that COBR, run by the Civil Contingencies Secretariat during the relevant period, is "the mechanism for agreeing the central government response to major emergencies which have international, national or multi-regional impact. Meetings at COBR are in effect Cabinet committee meetings, although there is no fixed membership, and they can meet at ministerial or official level depending on the issue under consideration. In general, the chair will be taken by the secretary of state of the Government department with lead responsibility for the particular issue being considered". It is standard practice for Ministers from the devolved administrations to be invited to COBR meetings where there may be impacts in the devolved administrations. Prior to 2010, for a civil or non-terrorist domestic emergency, the Civil Contingencies Committee (a cabinet committee) would meet, bringing together ministers and officials from the key departments and agencies involved in the response and wider impact management, along with other organisations as appropriate.
- 2.11. The Civil Contingencies Secretariat itself was founded in 2001 following a number of major challenges faced by the Government at the start of the millennium, such as fuel protests, widespread flooding and the spread of foot and mouth disease. In light of these events, it was concluded there should be a dedicated capability in the centre of government – the Civil Contingencies Secretariat – that would manage both the Government's preparedness and its response to such major, nationwide events in the future.
- 2.12. The Government's website explains that: "The Scientific Advisory Group for Emergencies (SAGE) is convened to provide independent scientific advice to support decision-making in the Cabinet Office Briefing Room (COBR) in the event of a national

emergency.”⁴ SAGE is a standing capability. Although associated by many solely with the COVID-19 pandemic, it is part of our generic response structures and has addressed other risks as the need has arisen. The advice provided by SAGE does not represent official government policy.

2.13. The functions and role of the Civil Contingencies Secretariat and the Cabinet Office role in emergency planning and preparedness are described in more detail in the Cabinet Office corporate witness statements to Module 1 of the Inquiry, signed by Roger Hargreaves. The Inquiry has asked about the National Security Council (Threats, Hazards, Resilience and Contingencies) (“NSC(THRC)”). Mr Hargreaves’ first corporate statement explained that: “The remit of the NSC(THRC) was to consider issues relating to security threats, hazards, resilience and civil contingencies, reporting as necessary to the NSC. The sub-committee agreed to a programme of work led by the DHSC and Cabinet Office to improve pandemic flu preparedness across government in light of the lessons learned from Exercise Cygnus.” NSC(THRC) was disbanded in 2019.⁵

2.14. As described in Alex Chisholm’s corporate statement to Module 1, in July 2022 the Cabinet Office made changes in how the Government responds to emergencies and to improve the long-term resilience of the UK. The Civil Contingencies Secretariat was split into two separate resilience functions: the COBR Unit which continued to lead the Government’s response to acute emergencies; and the Resilience Directorate, to lead on the Government’s strategic approach to resilience.⁶

2.15. I understand that the Inquiry has also asked for information on COBR structures. Overall, the COBR Unit is responsible for:

- 2.15.1. Leading government preparedness for and response to emergencies, including horizon-scanning, 24/7 watchkeeping, and situational awareness;
- 2.15.2. Managing the UK Government’s central crisis facilities, communications and delivery systems and continuity arrangements;
- 2.15.3. Raising standards of crisis management in government, through professionalisation, training and exercising;

⁴ CG/5 - INQ000086855

⁵ CG/6 - INQ000145912

⁶ CG/1 - INQ000099517

- 2.15.4. Coordinating cross-government preparedness for Chemical, Biological and Radiological risks.

Cross-Government Functions

- 2.16. There are a number of cross-government functions that support the responsibilities described above. Some of these functions are based in the Cabinet Office (see below). In addition, the Analysis function is housed in the UK Statistics Authority, the Legal function in the Government Legal Department (responsible to the Attorney General), and the Finance and Internal Audit functions are housed in HM Treasury.
- 2.17. Each Function is led by a Head of Function, who is a senior civil servant, reporting directly to the Permanent Secretary of the Cabinet Office and who is responsible for setting standards, building capability and shaping cross-government strategies. The purpose of each of these functions based in the Cabinet Office during the pandemic is outlined below:
 - 2.17.1. Commercial and grants: to drive consistency in the planning and management of procurements and grant making, ensuring that the process for letting and then managing contracts and grants realise value for money and support the delivery of high quality public services as required by each separate department.
 - 2.17.2. Communication: to deliver responsive and informative public service communication that supports government policy and priorities, and assists with the effective operation of public services.
 - 2.17.3. Counter fraud: to ensure the effective management of counter fraud, bribery and corruption activity in government.
 - 2.17.4. Debt: to drive consistency in the management of debt owed to government organisations, minimising losses to the exchequer, protecting taxpayers' money and minimising unnecessary stress on debtors.
 - 2.17.5. Digital, data and technology: to raise the profile of Government Digital and Data and give government leaders the necessary skills to make informed decisions and support the delivery of consistent and excellent digital services and user experiences, the use and sharing of data, and the building and deployment of technology.

- 2.17.6. People (formerly human resources): to lead and manage human resources activity across government, ensuring people are recruited, developed and deployed to meet the Government's needs.
- 2.17.7. Project delivery: to direct and manage portfolios, programmes and projects to ensure value for money and the successful and timely delivery of government policy and business objectives.
- 2.17.8. Property: to ensure government property is well managed, designed, constructed and operated; is efficient and provides value for money; is safe, secure and sustainable; and meets the needs of those using the property.
- 2.17.9. Security: to protect the government's assets (people, property and information), including visitors to government property, third party suppliers engaged on government business, and citizen data.
- 2.18. The general purpose and role of the Government Commercial Function (GCF) is explained in Cabinet Office corporate statements to Module 1 and Module 5 of the Inquiry,⁷ signed by Gareth Rhys Williams. As is explained in that second statement, during the pandemic the functional model of working and the ability to use existing legal flexibilities to procure at speed assisted GCF in responding to challenging commercial demands. Further detail on the work of the Government Counter Fraud Function (GCFF) during the pandemic is provided in Section E of that statement. The Cabinet Office has also provided to Module 5 of the Inquiry a further statement on fraud and the work of the GCFF, Public Sector Fraud Authority (PSFA) and the Centre of Expertise (the functional centre of the GCFF up to the creation of the PSFA in 2022).⁸
- 2.19. I understand that the Inquiry is interested in the Cabinet Office's relationship during the pandemic with other government departments, including HM Treasury, BEIS, FCDO and DHSC. The Cabinet Office including No.10 sits at the centre of government (sometimes referred to as 'the centre', and which also comprises HM Treasury). The Cabinet Office including No.10 fulfils a core coordination role – supporting and advising the Prime Minister and Cabinet Office ministers, and facilitating Cabinet and collective decision-making across government. As such, it monitors the delivery priorities of other departments, seeking to ensure they remain on track, while also brokering decisions

⁷ CG/7 - INQ000182611; CG/8 - INQ000497031

⁸ CG/9 - INQ000514029

between departments and building consensus on policies across other government departments with lead responsibility for specific issues, such as HM Treasury for the economy, the FCDO for the UK's diplomatic, development and consular work around the world and DHSC for health.

- 2.20. The Cabinet Office's first corporate statement to Module 5 of the Inquiry also covers the relationship between the Cabinet Office and DHSC, in respect of the matters related to procurement. This statement describes in brief below the governance structures that existed within the Cabinet Office during the COVID-19 response in undertaking this role.

Committees and official support structures during the pandemic

- 2.21. The formal structures of Cabinet, its committees, Ministerial Implementation Groups (MIGs) and how the official support structures around these operated during the pandemic are explained in the Cabinet Office corporate statement to Module 2 of the Inquiry, signed by Simon Case.⁹ That statement summarises these meeting formats during three stages: the first governance stage (from January 2020, the beginning of the Module 2 relevant period to 15 March 2020); the second governance stage (from March 2020 to 27 May 2020); and the third governance stage (from May 2020 to March 2022).
- 2.22. During the first stage of governance, decisions which required collective agreement were taken through the COBR mechanism and the Cabinet also considered the Government response. I understand that the Cabinet Office has provided the Inquiry with a full chronology of COBR meetings between 24 January 2020 and 23 March 2020.¹⁰
- 2.23. The Civil Contingencies Secretariat was first notified of the outbreak in Wuhan on 2 January 2020. Throughout January 2020, the Civil Contingencies Secretariat worked closely with DHSC, Government Office for Science (GO-Science) and Public Health England (PHE) to monitor the situation overseas, and begin preparations for potential impacts in the UK. This included chairing Coronavirus Officials meetings on 17 and 23 January 2020. The first COBR meeting took place on 23 January 2020. In late January 2020 the Civil Contingencies Secretariat widened its response to COVID-19 in line with its standard practice, including a policy cell, operations cell and an information cell, with links to key departments via liaison officers. The Civil Contingencies Secretariat

⁹ CG/2 - INQ000092893

¹⁰ CG/10 - INQ000113573

national security watchkeeper team (which monitored national security and civil contingencies risks) and Civil Contingencies Secretariat crisis management team (which provided technical and operational support to the COBR facility) augmented the response.

2.24. COVID-19 was considered at further Cabinet meetings during the first stage. The Cabinet Secretary (Mark Sedwill at the time) was the senior official for Cabinet, responsible for its effective functioning.

2.25. The Cabinet Office corporate statement to Module 2 of the Inquiry (signed by Simon Case) sets out that from 16 March to 27 May, four new MIGs led the key lines of operation across the different strands of the government response, namely: the Health Ministerial Implementation Group; the General Public Services Ministerial Implementation Group; the Economic and Business Response Ministerial Implementation Group; and, the International Ministerial Implementation Group.¹¹

2.26. The terms of reference for each MIG are summarised below.¹²

2.26.1. The Health Ministerial Implementation Group (HMIG) was set up, as set out in its ToR, “to focus on: policy interventions to protect public health, including monitoring and implementation of current interventions, and consideration of any future interventions; oversight of NHS capacity; social care preparedness, notably ensuring capacity in the critical care system for those worst affected; and medical and social support for those to whom we will be providing the shielding intervention”. The HMIG meetings ran between 18 March 2020 and 26 May 2020. The Chair was the Health Secretary. The Deputy Chair was the Secretary of State for Housing, Communities, and Local Government. The Senior Secretary for the HMIG was Simon Ridley. The Cabinet Office has provided the Inquiry with a full chronology of HMIG meetings.¹³

2.26.2. The General Public Services Ministerial Implementation Group (GPSMIG) was set up, as set out in its ToR, to “coordinate and advise on public sector issues relating to the C-19 pandemic across the UK, excluding the NHS and social care” (which were covered by the HMIG). The GPSMIG meetings ran between 17 March 2020 and 21

¹¹ CG/2 - INQ000092893

¹² Full terms of reference are at CG/11 - INQ000087167

¹³ CG/12 - INQ000176782

May 2020. The Chair was the Chancellor of the Duchy of Lancaster (CDL). The Senior Secretary for the GPSMIG was Jessica Glover. The Cabinet Office has provided the Inquiry with a full chronology of GPSMIG meetings.¹⁴

2.26.3. The Economic and Business Response Ministerial Implementation Group (EBRMIG) was set up, as set out in its ToR, to “coordinate and advise on business-related regional, sectoral and corporate-level issues relating to the C-19 pandemic”. The meetings ran between 16 March 2020 and 21 May 2020. The Chair was the Chancellor of the Exchequer. The Deputy Chair was the Secretary of State for Business, Energy and Industrial Strategy. The Senior Secretary was Jonathan Black. The Cabinet Office has provided the Inquiry with a full chronology of EBRMIG meetings.¹⁵

2.26.4. The International Ministerial Implementation Group (IMIG) was set up, as set out in its ToR, to “coordinate and advise on UK's role in the coordination and delivery of the international health and economic response to the C-19 pandemic, bilaterally and through multilateral (e.g. G7/20) and international (e.g. WHO, IMF, World Bank) organisations. Setting the UK's strategic approach to the threats and opportunities arising from the pandemic and setting the course for the longer term strategic national recovery”. The meetings ran between 18 March 2020 and 7 May 2020. The Chair was the Foreign Secretary. The Senior Secretary was David Quarrey (the Prime Minister's adviser on International Affairs and Deputy National Security Adviser). The Cabinet Office has provided the Inquiry with a full chronology of IMIG meetings.¹⁶

2.27. As explained in the Cabinet Office statement to Module 2 of the Inquiry signed by Simon Case, from 28 May 2020, the four MIGs were stood down and replaced by two new Cabinet committees: the COVID Strategy Committee (COVID-S) and the COVID Operations Committee (COVID-O).

2.28. The COVID-S Committee was chaired by the Prime Minister. The core membership of COVID-S comprised the Chancellor of the Exchequer, the Foreign Secretary,

¹⁴ CG/13 - INQ000177567

¹⁵ CG/14 - INQ000176784

¹⁶ CG/15 - INQ000176783

Secretary of State for the Home Department, the CDL, the Health Secretary and the Secretary of State for Business, Energy and Industrial Strategy. As set out in its terms of reference, COVID-S was set up “to drive government’s strategic response to COVID-19, considering the impact of both the virus and the response to it, and setting the direction for the recovery strategy.” The meetings, which ran between 4 June 2020 until 21 February 2021, set in place the overarching COVID-19 strategy, and then considered key strategic choices in the response to the pandemic. The Cabinet Office has provided the Inquiry with a full chronology of COVID-S meetings.¹⁷

- 2.29. The COVID-O Committee was usually chaired by the CDL. On occasion, meetings were chaired by the Prime Minister or delegated to the Paymaster General or the Minister for the Cabinet Office. The core membership was the Chancellor of the Exchequer and the Health Secretary (other departments would be invited according to the agenda of a particular meeting). According to its terms of reference, COVID-O was set up “to deliver the policy and operational response to COVID-19.” Meetings often started with data and science briefings either from the Dashboard team or key experts. The devolved administrations were invited to meetings where a UK-wide approach was needed, for example on border measures and vaccination. The meetings ran between 29 May 2020 and 29 March 2022. The Cabinet Office has provided the Inquiry with a full chronology of COVID-O meetings.¹⁸
- 2.30. COVID-S and COVID-O were supported by a new unit, the COVID-19 Taskforce, which was based within the Cabinet Office. The Taskforce was the unit at the centre of government which joined together strategy, analysis and coordination with departments across Whitehall. The COVID-19 Taskforce led the cross-government response to COVID-19. It led the official advice in the centre of government to the Prime Minister, CDL and other ministers on the development and delivery of the Government’s COVID-19 strategy, across the full range of policy issues and at all key decision-making moments, informed by a single analytical picture of the pandemic (the Dashboard).
- 2.31. This third stage has been explored in detail in corporate statements produced by the Cabinet Office for Module 2 of this Inquiry up to the point at which it was stood down in March 2022.
- 2.32. Other relevant Cabinet committees during the period included the Health Promotion Taskforce, established in August 2021 to drive cross-government effort to improve the

¹⁷ CG/16 - INQ000176781

¹⁸ CG/17 - INQ000177566

nation's health, supporting economic and levelling up. The Health Promotion Taskforce was chaired by the Health Secretary. I understand that the Inquiry has asked about the National Science and Technology Council. This committee, chaired by the Prime Minister, was established in October 2021 to consider matters relating to strategic advantage through science and technology and was stood down in July 2022.

Meetings outside the ministerial committee structure

2.33. Given the role of the Cabinet Office across the breadth of the Government's response to COVID-19, the Prime Minister and other Cabinet Office ministers held a wide set of meetings outside the ministerial committee structure. The Inquiry has asked about the following specifically:

- 2.33.1. **Daily meetings with the Prime Minister:** The Prime Minister would typically chair a daily morning meeting to provide steers on the key issues for the day. From early March 2020, this daily meeting focused increasingly on COVID-19, bringing in other key ministers, as well as officials and advisers, such as the Chief Medical Officer (CMO) and Government Chief Scientific Adviser (GCSA). These meetings typically decided what the key policy elements of the response needed to be on that day and how to communicate them to the public. The daily meeting evolved into the 9:15 strategy meeting which took place between 17 March and 15 May 2020. Subsequently, as the COVID-19 Taskforce was formed, during this 9:15 strategy meeting key ministers and officials would review the latest Dashboard of data.
- 2.33.2. **Quads:** The Prime Minister chaired meetings, sometimes referred to as 'Quads', with the small number of Secretaries of State most closely involved in the strategic response to prepare for and align their approach to key strategic decisions in the response to the pandemic.
- 2.33.3. **'Deep dives':** As explained in other Cabinet Office corporate statements to the Inquiry, on an ad hoc basis, or regularly for periods of time, the Prime Minister had meetings on specific policy and operational issues, with the attendance tailored to those issues. In these meetings, the Prime Minister considered, and sometimes made decisions on, the policy approach or operational implementation. Examples of such meetings that are relevant to Module 5 are described in this statement.

Local Resilience Forums

- 2.34. Local Resilience Forums (LRF) are multi-agency partnerships comprising 2 categories of responders as defined by schedules 1 and 2 of the Civil Contingencies Act 2004 (the 'CCA 2004'). The first category of responder is made up of local public services, including 'blue-light' emergency services, the NHS, the Environment Agency and other services ('Category 1 Responders') and Category 1 Responders are supported by other 'co-operating bodies' such as Highways England, utilities companies, transport providers and other similar organisations (Category 2 Responders).
- 2.35. There are 38 LRFs in England and 4 in Wales based on each Police Area (with the exception of London, where one area covers both the Metropolitan and City Police Area). LRFs only operate in England and Wales and civil contingency matters in both Scotland and Northern Ireland are matters that fall within the competency of the devolved administrations.
- 2.36. One of the main aims of an LRF is to understand the local risk profile and communicate this to the public. They do this through the use of Community Risk Registers (CRR). These not only provide advice on what steps can be taken to improve personal resilience to emergencies but underpin and guide the emergency planning process in an LRF.
- 2.37. An LRF is not a corporate or legal entity, nor does it have powers to direct members. It is a forum to encourage collaboration between those organisations which may need to come together in response to an emergency affecting their community. The purpose of the LRF process is to ensure effective delivery of those duties under the CCA 2004 that need to be developed in a multi-agency environment. These duties include to:
- 2.37.1. assess the risk of emergencies occurring and use this to inform contingency planning;
 - 2.37.2. put in place emergency plans;
 - 2.37.3. put in place business continuity management arrangements;
 - 2.37.4. put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
 - 2.37.5. share information with other local responders to enhance co-ordination;

- 2.37.6. co-operate with other local responders to enhance co-ordination and efficiency; and
 - 2.37.7. provide advice and assistance to businesses and voluntary organisations about business continuity management.
- 2.38. A more thorough overview of the requirements of the LRFs is set out in 'The role of Local Resilience Forums: A reference document'.¹⁹
- 2.39. Prior to, and throughout the course of the pandemic, both the Civil Contingencies Secretariat within the Cabinet Office and the Department for Communities and Local Government (DCLG, from 2018 the Ministry for Housing, Communities and Local Government (MHCLG)) were jointly responsible for local response capability. DCLG was the Government department that communicated with LRFs, and acted as a critical friend, provided support²⁰, and highlighted issues which needed to be resolved.²¹ Cabinet Office and DCLG co-operated in a number of ways to ensure best practice was shared between the LRFs and that LRFs were updated on key strategies, plans and events. For example, an LRF Chairs' Conference was held, usually twice annually, which was co-produced between DCLG and Cabinet Office. Other government departments would be asked to contribute where relevant, and LRFs shared experience of good practice and lessons learned.
- 2.40. From February 2020 onwards, the work of the LRFs in responding to the pandemic became a more frequent consideration in Cabinet discussions and a number of COVID-S and COVID-O meetings that occurred throughout the pandemic. Examples of these are included in the section covering PPE (Section 3, below).
- 2.41. Whilst there was some interaction between the Cabinet Office (principally the Civil Contingencies Secretariat) and LRFs in relation to PPE, the assessment of their demand for PPE and the distribution of PPE to them was led by DHSC and MHCLG. When issues came to the Civil Contingencies Secretariat's attention,²² they would accordingly generally be directed to MHCLG and DHSC.²³

¹⁹ CG/18 - INQ000080824

²⁰ see Emergency Preparedness, Chapter 16, paragraphs 16.10-14 - CG/19 - INQ000080791

²¹ see evidence of Catherine Frances in Module 1 of the Inquiry - CG/20 - INQ000061507

²² see for example CG/21 - INQ000498261, where an LRF had contacted Civil Contingencies Secretariat about delays

²³ see CG/22 - INQ000498262, the response from MHCLG and CG/23 - INQ000498263, letter from DHSC to LRFs about PPE

Commercial structures

- 2.42. The GCF is a pan-Government network of around 6,000 civil servants in central government departments and led from the Cabinet Office. These civil servants have a role in both procuring and providing the necessary capacity to support the procurement of goods and services on behalf of the Government. The structures of the GCF and its establishment are set out in more detail in the first Cabinet Office statement to Module 5 of the Inquiry in Section B.
- 2.43. The Inquiry has also requested information about the structures of the GCF in the period before the pandemic.

Situation before 2015

- 2.44. Since 2012 the GCCO has convened a Commercial Function Leaders Group (CFLG) which comprises senior civil servants in commercial leadership roles who exercised functions on behalf of a minister during the pandemic. A list of attendees for this group from April 2020 has been exhibited.²⁴ In this period (prior to 2015 and before the establishment of the GCF), commercial activity was undertaken in each department. That meant that a large spending department (such as the Department for Work and Pensions) would have commercial staff at all grades, letting contracts and assisting in the management of an extensive portfolio of pre-existing contracts. The Commercial Director (and all the staff reporting to them) was appointed by the department and typically reported to the Finance Director.
- 2.45. The Commercial Directors met monthly in a group chaired by the Government Chief Commercial Officer (GCCO) who at the time was Bill Crothers (the Commercial Function Leadership Group (CFLG)). There was limited cross-fertilization of ideas and talent between departments, although some policy working groups existed for consultation purposes.
- 2.46. Prior to the introduction of the government functions (explained above), the government established the Crown Commercial Service (CCS) as a way of seeking to use the consolidated buying power of government. Bill Crothers was also Executive Chairman of CCS. The Commercial Policy and Complex Transactions teams were part of CCS, reporting to the Managing Director.

²⁴ CG/24 - INQ000498363

Evolution of the Functional Model

- 2.47. The decision was taken to separate the leadership roles of the GCCO and the Chair of CCS, and a non-executive chair was appointed for CCS in May 2016. The GCCO established central commercial teams in the Cabinet Office including: the Commercial Standards, Best Practice, Assurance and Controls team (which supported the delegated spending controls regime); the Markets and Suppliers team (which concentrated on the Strategic Suppliers, each of which had significant (>£100m/year) business with government and contracts with two or more central government departments); the Complex Transactions Team (CTT, which had been transferred back to the Cabinet Office from CCS); and a project team concerned with establishing the functional model as defined in the functional plan.²⁵ Gareth Rhys Williams was appointed through an open competition to the post of GCCO in March 2016.

Organisation of the GCF prior to the pandemic

- 2.48. The GCF organisation immediately prior to the start of the pandemic was described in the first Cabinet Office corporate statement to Module 5. Broadly, the Cabinet Office continued to house four central commercial teams including CTT and Markets and Suppliers which had similar remits to those held in 2016.²⁶ The Commercial Standards, Best Practice, Assurance and Controls team had added process improvement to its mission and was titled the Commercial Continuous Improvements Team – CCIT. The Commercial Policy team had transferred from CCS to GCF in 2018. The project team set up to implement the functional model had evolved into the Commercial Capability team, forming a fifth central commercial team, tasked with providing training and development opportunities across government. It housed the recruitment hub and an HR function tasked with tracking commercial talent and developing a succession plan for all senior commercial posts in central government. It also managed the Government Commercial Organisation (GCO), which was (and is) an employment vehicle for senior commercial professionals across government, rather than a separate organisational entity.
- 2.49. In 2018, and following the collapse of Carillion, a new team was established called the Outsourcing Programme team. While the collapse of Carillion was not due to problems in its outsourced contracts, but rather cash flow and accounting issues related to some large construction contracts (several overseas), it threatened the ongoing delivery of some 430 outsourcing contracts for key services across Health and Education and

²⁵ CG/25 - INQ000498346

²⁶ CCT Organograms 2017 - CG/26 - INQ000498347

Justice. The team was set up to take the opportunity to work with industry to develop and then disseminate best practice for all stages of outsourcing contracts (where a service moves from being delivered by government to being delivered by a third party). Its first output was the Sourcing Playbook, with subsequently a suite of other Playbooks that addressed issues in three other market sectors. The Playbooks have been held up by industry as model ways of working with suppliers in the sectors they each address; however their application during the pandemic was limited as most procurement over the period related to products rather than services, albeit the tone of 'co-developing' them built a more constructive relationship with industry than was previously the case. This team later merged with the Markets and Suppliers team to become Markets, Sourcing and Suppliers in 2022.

- 2.50. This model enabled the GCF to manage the many challenges that came with the swift establishment of several emergency procurement streams for the pandemic. The CTT employed a cadre of commercial professionals that could staff projects quickly. The GCO had information on most senior commercial professionals (Grade 7 and above) across central government and was in a position to identify who could be redeployed. The common employment model for these senior staff helped in this redeployment and the common commercial accreditation model meant that the receiving departments could be confident of the competence of the incoming staff. The existence of a recruitment hub helped bring more external staff in on short term contracts. Further details on the work of the CTT during the pandemic was provided in the first Cabinet Office corporate statement to Module 5.

Resourcing

- 2.51. As explained in the first Cabinet Office corporate statement to Module 5, the organisational model of the GCF and GCO, the central employer of senior commercial staff (above Grade 7), enabled trained resources to be moved rapidly to the point of greatest need. Initially, CTT staff were assigned to provide commercial support to DHSC on PPE and test procurement, and within the Cabinet Office to work on the Ventilator Challenge. By 20 March 2020 it became apparent that more support was needed from across the GCO which led to a call to Commercial Directors to lend commercial support for priority areas.²⁷ The GCO Talent team tracked the resources needed based on information provided by departments and worked with these departments with resourcing needs to place individuals into roles. The speed at which the workforce was required to be seconded meant only individuals with commercial

²⁷ CG/27 - INQ000498216; CG/28 - INQ000498225

and procurement experience (preferably previously accredited) were considered for these roles. Individuals seconded from the GCO had been accredited by the Commercial Assessment Development Centre (ADC). The ADC provides a consistent method for selecting senior commercial staff and seeks to ensure that the government has capable people to improve commercial delivery and prevent contract value leakage. The ADC is used as the initial part of the recruitment process for the GCO.

- 2.52. The work undertaken by the GCO to move resources around was additive to the wider work across the Civil Service to move other, non commercial resources around government to meet the demands of the pandemic response.
- 2.53. In addition to the call to Commercial Directors for volunteers, the GCO sourced individual independent consultants through Public Sector Resourcing (a framework contract operated by CCS). The GCO Resourcing Hub, a central commercial recruitment organisation and part of the GCF, also secured critical resources via short term Fixed Term Appointments.²⁸
- 2.54. In parallel, other organisations offered support and commercial staff were brought in from local authorities, ALBs and other public sector organisations as well as central government departments.
- 2.55. Given the pressure on time, civil servants who moved between departments remained on their 'home' department's payroll.²⁹ Cross-charging only applied for some of the CTT staff who were assigned to DHSC.
- 2.56. The Workstream leaders receiving the seconded colleagues conducted local induction training to give seconded individuals the context in which they were working and instruction in the processes and tools that they were expected to use.

PPE resourcing

- 2.57. As stated in the first Cabinet Office corporate statement to Module 5, on Saturday 21 March 2020, a small number of Senior Civil Servants from the Complex Transactions Team in Cabinet Office, all Deputy Directors (i.e. commercial specialists), were assigned to DHSC to design, establish and manage the operations of the PPE Buy Cell, which was set up from scratch.³⁰ DHSC were not billed for these CTT staff, or any other CTT staff who subsequently joined the PPE Buy Cell, until after 1 July 2020

²⁸ CG/29 - INQ000498226

²⁹ CG/30 - INQ000498281

³⁰ CG/31 - INQ000478786

when DHSC was billed a day rate as set out in the engagement letter.³¹ This letter set out the tasking for a handover of the management of the PPE Buy Cell to DHSC. The Baringa consultancy services provided through and managed by CTT between 27 March – 3 July 2020 were billed to DHSC separately.³²

- 2.58. Jo Newman (CTT), as operations manager for the PPE Buy Cell, began allocating people to tasks within an agreed structure after the initial set up of the team on 1 April 2020. Jo worked with the GCO Talent Team to bring in staff from across government and other organisations and the allocation of resources was tracked in a spreadsheet. A snapshot of this resourcing spreadsheet, including resourcing levels and start and end dates is exhibited.³³ By 23 June 2020, 611 Civil Servants, 34 consultants and 148 contractors were part of the Cell.³⁴ This compares to just over 20 staff previously engaged by SCCL on buying PPE prior to the pandemic.

Ventilator Challenge resourcing

- 2.59. I joined the Ventilator Challenge on the 25 March 2020, from which date the Ventilator Challenge was managed day-to-day by me, a Senior Commercial Specialist (SCS2) in the central commercial team and Dan Webster, a Commercial Specialist (SCS1) in the Complex Transactions Team, supported by up to 3 additional Commercial Specialists (SCS1) in the Central Commercial Teams who were responsible for commercial decisions.³⁵ The project was resourced primarily by PA Consulting who were engaged by award without further competition (in accordance with the terms of a CCS Framework) to undertake project management, technical, logistics and communications activities. The number of PA consultants working on the Ventilator Challenge fluctuated on a weekly basis between 14 March through to August 2020. At its peak week commencing 4 April 2020, 103 individual consultants from PA Consulting were working on the Ventilator Challenge (although not all staff worked full time so the FTE equivalent was lower).³⁶ These consultants were managed on a project level by the commercial leads from the Central Commercial Teams.³⁷ There were also several civil service staff below SCS grade (Higher Executive Officer to Grade 6) who provided commercial, PMO and policy support for the Ventilator Challenge.³⁸ These were either

³¹ CG/32 - INQ000498339

³² CG/33 - INQ000496758; CG/34 - INQ000496745

³³ CG/35 - INQ000477253

³⁴ CG/36 - INQ000498323

³⁵ CG/37 - INQ000391400

³⁶ CG/38 - INQ000497264 - see page 10 which shows the number of PA Consulting staff working on the Ventilator Challenge.

³⁷ CG/39 - INQ000498246

³⁸ CG/37 - INQ000391400

sourced from within GCF, through the Resourcing Hub volunteer list, or from the Commercial Fast Stream. These staff were brought in from mid-March 2020 through to September 2020. Staff in the Ventilator Challenge team were also supported by lawyers in the Government Legal Department, staff from the Ministry of Defence's Cost Assurance and Analysis Service ("CAAS"), and staff from the Cabinet Office finance team. The number of staff, both from PA Consulting and civil servants, working on the Ventilator Challenge peaked in April 2020 at between 120 to 160 people.

Test procurement resourcing

- 2.60. From 18 March 2020, the Complex Transactions Team (CTT) assigned CTT employees to DHSC until 30 September 2020.³⁹ CTT billed DHSC a day rate per the number of CTT employees for this work from 1 July 2020. This CTT support included three SCS1 commercial specialists (Dr Beveley Jandziol, Tim Byford and Pam Doyle) who provided commercial leadership and several commercial staff at SCS, grade 6 or grade 7 (on permanent and fixed term contracts) and a contractor who was managed by CTT.⁴⁰ It was then agreed with DHSC that a smaller group of the team would remain for a further period, from October 2020 onwards, to support the knowledge transfer to the new resource on the Test and Trace Programme.⁴¹ Dr Beverley Jandziol remained as an adviser until the end of March 2021. Chris Hall, a Director working for the GCCO was also deployed in Test and Trace between September 2020 and February 2021.

Crown Commercial Service (CCS)

- 2.61. This section of the statement draws on and repeats sections of the Cabinet Office statement to Module 1 of the Inquiry, signed by Simon Tse, dated 20 February 2023.⁴²
- 2.62. The purpose of the CCS is to help UK central government departments, arms-length bodies and the wider public sector get better value for money from their purchasing in categories of goods and services where multiple public sector organisations have the same requirement in common. It does this in a number of ways, particularly:

- 2.62.1. By putting in place commercial agreements (framework agreements and dynamic purchasing systems as permitted under the Public Contracts Regulations 2015 (the 2015 Regulations))⁴³ which leverage

³⁹ CG/40 - INQ000498338

⁴⁰ There was no CTT engagement letter for staff from March 2020 - July 2020 but CG/41 - INQ000562376 shows staff who were involved from July 2020 - September 2020 (Annex to CG/42 - INQ000498300).

⁴¹ CG/43 - INQ000498307

⁴² CG/44 - INQ000106033

⁴³ CG/45 - INQ000372757

the public sector's collective buying power and enable fast, effective and compliant procurement from capable suppliers in those categories by public sector organisations (referred to as “customers”).

- 2.62.2. By deploying expertise in certain categories of goods and services to shape and understand markets and advise public sector customers.
 - 2.62.3. By providing an assisted procurement service, primarily but not exclusively, to central government departments, running “call-off” procurements primarily from CCS framework agreements on their behalf.
 - 2.62.4. By developing digital solutions and platforms which simplify and facilitate the public procurement process.
- 2.63. CCS operates in around 80 categories of goods and services. These categories are currently grouped into four pillars:
- 2.63.1. Technology which includes, for example, hardware, software and networks.
 - 2.63.2. People Services which includes, for example, consultancy and contingent labour as well as executive search.
 - 2.63.3. Buildings which includes, for example, construction, facilities management and energy.
 - 2.63.4. Corporate Services which includes, for example, financial services, office supplies and logistics.
- 2.64. The scope of the categories which CCS operates in is not strictly defined as CCS must be flexible to adapt to the developing requirements of the public sector and the emerging offer from the supply market. The principal driving factor will be that the category of good or service is common to multiple public sector organisations. The principle on which CCS operates is that it aims to establish commercial agreements in those categories of goods or services where multiple public sector organisations have the same or similar requirements in common. This is because, this way, CCS commercial agreements can leverage the aggregated spend volume of the combined public sector organisations requiring the good/service in question to secure better terms and pricing for all public sector organisations using them and because the

agreements can expedite the public procurement process compliantly for those organisations.

2.65. By using CCS commercial agreements to procure, public sector organisations benefit in a number of ways in addition to gaining price benefits:

2.65.1. they can purchase their requirements more quickly and easily than if they had to run a full procurement process themselves;

2.65.2. they can take assurance that CCS has established the agreement in line with procurement legislation and government policy bringing to bear its specialist category expertise; and

2.65.3. they can take assurance that the suppliers available to them via CCS agreements have been tested through a robust procurement process, are capable of fulfilling the requirement and meet other relevant required standards (e.g. policy or regulatory standards) for public sector contracts.

2.66. CCS does not purchase goods and services itself for distribution to the public sector and consequently does not operate any storage facilities or distribution services. CCS acts as the contracting authority for the overarching commercial agreements it puts in place (which take the form of frameworks or dynamic purchasing systems). Individual public sector organisations are the contracting authorities for the call off contracts they put in place using CCS's commercial agreements and they manage those contracts themselves. CCS services and commercial agreements are available to central government, the public sector and the third sector and this was the case throughout the COVID-19 pandemic.

2.67. CCS does not as a general principle operate in categories where the specialist category knowledge and requirements sit only, or primarily, in another public sector organisation or group of organisations with a particular specialism. For example, CCS does not involve itself in the procurement of military equipment or medical and clinical equipment. In both the health and defence sectors, there are specialist organisations that enable the collective procurement of these more specialist goods and services and that work with defence and health sector organisations to procure and provide access to those goods and services. Defence and health organisations may and do use CCS commercial agreements for equipment that is not specialist to their sector however (e.g. office supplies).

- 2.68. As of 1 January 2020, the CCS board met every 6 to 8 weeks and comprised:
- 2.68.1. Simon Tse, Chief Executive
 - 2.68.2. Paul Coombs, Finance Director
 - 2.68.3. Tony van Kralingen, Non-executive Chair
 - 2.68.4. Rob Wilmot, Non-executive Director
 - 2.68.5. David Wakefield, Non-executive Director
 - 2.68.6. Silla Maizey, Non-executive Director
 - 2.68.7. Gareth Rhys Williams, Non-executive Director
- 2.69. There were two changes to the membership of the board during the relevant period: in September 2020, Steve McCrystal joined the CCS board as a Non-Executive Director, replacing Rob Wilmot; and In August 2021 Dr Manuela Gazzard joined the CCS board as a Non-Executive Director, replacing Silla Maizey.
- 2.70. As stated in paragraph 2.66, the CCS is not involved in the procurement of medical and clinical equipment. The central purchasing of healthcare equipment and supplies was and is carried out by Supply Chain Coordination Limited (SCCL), and in addition many NHS bodies bought independently or in conjunction with others. SCCL and these NHS bodies could also use CCS services and frameworks (subject only to the terms of the relevant agreements) – as could any public body in the UK, including in the devolved administrations. This did not change over the pandemic period.

Supply Chain Coordination Limited (SCCL)

- 2.71. In 2018, DHSC established SCCL to manage the NHS Supply Chain. The company was owned by the Secretary of State for DHSC until 1 October 2021, when share ownership was transferred to NHS England. The CEO of SCCL, which until September 2020 was Jin Sahota, was a GCO employee seconded to SCCL, as were some of the senior management team. As a senior commercial manager in Government, the CEO of SCCL had a relationship with the GCCO as head of the commercial function, but his objectives were set by the SCCL management board chaired by a DHSC appointee, which during the pandemic was Jim Spittle.

Project Defend, supply chains and the Cabinet Office Supply Chains Unit

- 2.72. Project Defend was set up in April 2020 within the then Department for International

Trade (DIT) as a cross-Government project aiming to strengthen the resilience of the UK's critical global supply chains (looking at the UK economy as a whole, not just UK Government Supply Chains).

- 2.73. Its objective was to diagnose and interrogate short and medium-term vulnerabilities in critical UK (non-food) supply chains. Examples were parts for power stations and key chemicals on which elements of UK industry were dependent. It identified critical supply chain dependencies, developed a range of targeted actions available to the Government to strengthen these supply chains, and supported government departments to develop strategies to support resilience in their sectors of responsibility. These balanced the need for domestic resilience with the broader commitments of the UK as a champion of free and fair trade. In the longer term, Project Defend also aimed to identify insights from the COVID-19 experience that could be generalised to national supply chains and national level procurement of all products.
- 2.74. The Project Defend Ministerial Small Group, chaired by Dominic Raab, First Secretary of State, and the Project Defend Steering Committee (later Programme Board) chaired by Antonia Romeo, Permanent Secretary DIT, met between 2 July 2020 and 2 March 2021. DIT organised and provided the secretariat for meetings of the Ministerial Small Group and Steering Committee. Cabinet Office and No.10 representatives were included in the membership of both groups.
- 2.75. In March 2021, following approval from DIT's Audit and Risk Assurance Committee, the project was closed. A permanent team was established in April 2021, still within DIT, to continue leading work across government to strengthen long-term resilience of supply chains.
- 2.76. There were a range of other initiatives in government at the time which were designed to contribute to addressing wider economic recovery as well as matters related to supply chain resilience outside of procurement activity. In 2021 the Government established the National Economic and Recovery Taskforce (NERT), a set of Cabinet-level committees designed to support longer term economic recovery out of the pandemic. This included the establishment of the NERT Logistics Cabinet committee in September 2021 to look at short term supply chain issues. Following a change of the Cabinet Committee structure in October 2021, NERT Logistics was replaced by the Domestic and Economic (Strategy) Committee (DE(S)), chaired by the Prime Minister, and in turn the Domestic and Economic (Operations) Committee (DE(O)), chaired by the CDL. The first meeting of the DE(S) was held on 26 October and the agenda included items on the Supply Chain Dashboard and near term supply

chain risks.⁴⁴ The first meeting of DE(O) was held on 9 November and included an update from DHSC on PPE containers at ports.⁴⁵

- 2.77. This was supported by the creation of the Cabinet Office Supply Chains Unit and Supply Chains Steering Group. In addition, the temporary appointment in September 2021 of Sir Dave Lewis, as the Prime Minister's Supply Chains Advisor was made to coordinate the cross-Government response to the acute supply chain issues seen in the UK and globally, as countries lifted lockdown restrictions. Government interventions during this period included: 33 actions to address the shortage of heavy goods vehicle (HGV) drivers in the UK,⁴⁶ including increasing HGV driver testing capacity by 90% above the pre-pandemic baseline and investing £32.5 million to improve HGV capacity and facilities across the country; introducing temporary visas to bolster the food supply chain⁴⁷ and easing competition law for the delivery of fuel to petrol station forecourts.⁴⁸ It was not the role of the Supply Chains Unit to undertake procurement of key equipment and supplies for government during the pandemic response. Its mandate was to support the wider UK economy.
- 2.78. The Cabinet Office Supply Chains Unit was merged into the Planning and Analysis Secretariat, which also absorbed the COVID-19 Taskforce in March/April 2022. The Planning and Analysis Secretariat was shut down in September 2022, with part of it becoming the Resilience Directorate, where the Critical Systems and Sectors team now coordinates activities across government departments to increase supply chains capacity and resilience. Further to this was work undertaken in the Resilience Directorate to take forward the strategic ambition of the Integrated Review in building domestic and economic resilience, including through driving the implementation of the measures set out in the Resilience Framework⁴⁹, published in December 2022.
- 2.79. In addition to the Resilience Framework, the Government published a supply chains resilience framework in November 2022.⁵⁰ On 13 March 2023 the Government then published the 'Integrated Review Refresh' which would set out the Government's next steps to "proactively support the capabilities, supply chains and technologies that are of strategic importance to the UK and the wider world".⁵¹

⁴⁴ CG/46 - INQ000498328; CG/47 - INQ000498327

⁴⁵ CG/48 - INQ000498329

⁴⁶ CG/49 - INQ000498361

⁴⁷ CG/50 - INQ000498362

⁴⁸ CG/51 - INQ000498359

⁴⁹ CG/52 - INQ000097685

⁵⁰ CG/53 - INQ000498360

⁵¹ CG/54 - INQ000494245, page 51; CG/55 - INQ000498333

Other Cabinet Office involvement relating to Module 5

- 2.80. As explained above, the Cabinet Office has provided significant material and response to Module 1 of the Inquiry in relation to pandemic preparedness, including in relation to supply chain resilience. As Lead Government Department, throughout the relevant period DHSC continued to be responsible for pandemic preparedness planning, including health sector preparedness through the PIPP Board. The PIPP Board generally met around twice a year before the pandemic. The PIPP Board was a DHSC board. A member of the Civil Contingencies Secretariat, based in the Cabinet Office, sat on the PIPP Board largely for information, rather than to provide direction.
- 2.81. Paragraph 4.39 of the supplementary corporate witness statement of Roger Hargreaves, Director of the COBR Unit, Cabinet Office, for Module 1 dated 28 April 2023⁵² provides the following explanation on the PIPP Board:
- 2.81.1. “The PIPP Board went into a level of detail on Health Sector preparedness that would not normally be expected of a cross-cutting board such as the PFR [Pandemic Flu Readiness] Board, which focused on preparedness across all sectors. For example, in PIPP board meetings in December 2013⁵³ and June 2014⁵⁴, DHSC provided a detailed “policy update” on a wide range of pandemic related issues including the stockpiling of antivirals and antibiotics. While the Cabinet Office sat on the PIPP Board for information, in reality the Cabinet Office [Civil Contingencies Secretariat] had (and has) very little concrete involvement in any of the work covered by the PIPP programme. It was not part of the remit of the Cabinet Office to be responsible for any health sector services or resources – this was the responsibility of DHSC and its agencies. The role of the Cabinet Office in the PIPP Board was more as a ‘critical friend’, attending to maintain awareness of health sector preparedness and highlight areas of interdependence with other workstreams.”
- 2.82. Mr Hargreaves’ supplementary statement to Module 1 described how Health Sector Resilience Plans (HSRP) provided by the DHSC “set out their ability to respond to relevant risks in the NRA [National Risk Assessment]” and included supply chain resilience and business continuity arrangements. The purpose of the resilience plans

⁵² CG/56 - INQ000182612

⁵³ CG/57 - INQ000212791

⁵⁴ CG/58 - INQ000105102

was to allow relevant departments to review resilience within the sectors that they were responsible for.

- 2.83. In addition to this work, there is a wider network of teams, bodies and organisations that have various roles and functions in relation to emergency preparedness and response. This work includes the National Security Risk Assessment and National Risk Register, the Cabinet Office role in each of which is explained in that statement.⁵⁵ Mr Hargreaves' statement explained:

2.83.1. "The National Security Risk Assessment ("NSRA") is the government's main tool for identifying and assessing the most serious risks facing the UK or its interests overseas over a multi-year period. It supports operational risk management, planning and responses in all tiers of the UK resilience system and also serves as a common framework for understanding risk."

- 2.84. The Cabinet Office also produces a National Risk Register. Mr Hargreaves' statement goes on to state that:

2.84.1. "The National Risk Register is the public-facing version of the NSRA. It was first created in 2008 and has been updated every two years, with the latest iteration having been released in 2020. The National Risk Register is particularly useful to local emergency planners, resilience professionals and businesses. It helps them to make decisions about which risks to plan for and what the consequences of these risks are likely to be."

- 2.85. Mr Hargreaves' statement also summarises the contents of the NSRA (and its Predecessor) and the National Risk Register (in Relation to Pandemic Risk and New and Emerging Infectious Diseases).

EU exit planning

- 2.86. The Inquiry has also asked about what consideration was given to healthcare supply chain disruption including as part of planning for EU exit.
- 2.87. Corporate and supplementary statements to Module 1 of the Inquiry, signed by Roger Hargreaves, detail where pandemic preparedness work in the Cabinet Office continued alongside work on EU exit no-deal planning, including Operation Yellowhammer, the

⁵⁵ CG/6 - INQ000145912

aim of which was to plan for potential short-term disruption under a 'no deal' Brexit, rather than global disruption to supply chains as was experienced during the pandemic. The Cabinet Committees that oversaw EU Exit preparations, EU Exit Strategy (XS) and EU Exit Operations (XO) were updated on the potential impact of leaving the EU on the supply of key healthcare goods, as required. This work informed pandemic response planning through joint COVID-O/XO meetings. For example, at a joint COVID-O and EU Exit Operations meeting on 7 December 2020, ministers were updated on the key risks and vulnerabilities within supply chains for COVID-19 therapeutics. The paper provided by DHSC for this meeting is exhibited.⁵⁶ More broadly, EU Exit preparations enhanced the UK's preparedness for whole system risks. For example, the risk management and reporting structures used for the pandemic response, such as the COVID-19 Strategy and Operations Cabinet Committees, largely mirrored preexisting structures that were enhanced by EU Exit preparations.

The Rapid Response Unit

- 2.88. Throughout the pandemic, misinformation and disinformation relating to vaccines and treatments for COVID-19 circulated in the public domain, including false narratives around vaccine side effects, the safety of vaccines and therapeutics, and the ingredients used within medical treatments.
- 2.89. The Government took a UK-wide approach to countering misinformation and disinformation during the pandemic. In the Cabinet Office, this work was led by the Rapid Response Unit (RRU) in collaboration with relevant teams across government, including the Counter Disinformation Unit (CDU) and departmental communications teams.
- 2.90. The RRU was set up within the Cabinet Office by the Government Communication Service (GCS) in early 2018. Ministerial responsibility for the RRU sat within the Cabinet Office, with the Minister for the Constitution overseeing its formation. Regulations such as the GDPR and Cabinet Office governance mechanisms were applicable in the usual way; there were no specific regulations governing the RRU.
- 2.91. The RRU monitored and analysed trends in media and social media content to identify key narratives and themes. The RRU had no specific powers to address mis/disinformation, instead its role was limited to sharing relevant information across government. When the RRU detected mis/disinformation gaining momentum, it was

⁵⁶ CG/59 - INQ000146717

responsible for alerting the relevant government departments, who would then decide on any appropriate response.

- 2.92. During the pandemic, the RRU summarised the findings of its media monitoring activity, for example in a weekly 'Vaccine Hesitancy' report, which were both circulated as appropriate to teams across government.⁵⁷
- 2.93. In early 2022, the GCS conducted a central reform process which resulted in a complete reorganisation of the GCS. During this process, it was decided that the GCS should only undertake activities relevant to a functional centre, therefore it was decided to close the RRU.
- 2.94. The CDU moved from DCMS to the Department for Science, Innovation and Technology (DSIT) following the Machinery of Government change in February 2023.⁵⁸

⁵⁷ An example of such a report is at CG/60 - INQ000498324

⁵⁸ CG/61 - INQ000420988

3. SECTION 3: PERSONAL PROTECTIVE EQUIPMENT (PPE)

Overview

- 3.1. This section builds on the information provided in the first Cabinet Office corporate statement to Module 5 on the role of the GCF in activities to procure PPE during the response to the pandemic.

Demand signal dashboard and modelling

- 3.2. At all times during the pandemic the central management of PPE for clinicians and social care (including the PPE stockpiles) remained in control of DHSC. However in the early stages of the pandemic response, the Civil Contingencies Secretariat convened the first of the cross-government supply chain meetings on PPE. A list of decisions and actions were produced after each meeting and circulated to the attendees. These meetings took place until the end of March 2020 when they were replaced by the DHSC PPE Governance Board. The Civil Contingencies Secretariat requested that the DHSC PPE Governance Board include other government departments and the devolved administrations. The three meetings led by the Civil Contingencies Secretariat were:

3.2.1. On 18 February 2020, departments were actioned to share details of the PPE supplies used by their departments and sectors, and DHSC was actioned to complete stocktakes of stock levels and to model requirements. The departments agreed to reconvene to discuss 'pinch-points' and options for resolving them, including how to facilitate mutual aid and other levers to influence supply chains or mitigate risks.⁵⁹

3.2.2. On 27 February 2020, 'pinch points' and mitigations were discussed, and all departments were actioned to identify departmental asks for PPE supplies and in what specific situations PPE may be needed during the Reasonable Worst Case Scenario, and to share them with Public Health England by 6 March 2020. Departments were also asked to consider the PPE purchasing needed for recovery stages and be ready to present initial thoughts at the next PPE supply chains meeting.⁶⁰

⁵⁹ CG/62 - INQ000421014

⁶⁰ CG/63 - INQ000421015

- 3.2.3. On 10 March 2020, PPE and department sector needs and prioritisation of PPE were discussed. In anticipation of this meeting DHSC had shared the PIPP stock levels with the group.⁶¹ Actions from this meeting included for DFID to share its PPE stockpile levels with the DHSC and for the DHSC information to be reshared.⁶²
- 3.3. In addition to these, meetings were held on an ad-hoc basis at the initial outbreak of COVID-19, and multiple departments updated on their PPE supplies before the Civil Contingencies Secretariat coordinated cross-government meetings from 18 February 2020. For example:
- 3.3.1. On 5 February 2020 the second SitRep circulated by Civil Contingencies Secretariat includes an update from the Department for International Development on procurement of PPE;⁶³
- 3.3.2. On 7 February 2020 an ad-hoc officials meeting on the outbreak of the novel coronavirus was held at which DHSC was asked to update on PPE supplies;⁶⁴ and
- 3.3.3. On 14 February 2020 an ad-hoc officials meeting was held where FCO and DFID were actioned to include devolved administrations in work regarding PPE requests from foreign states.⁶⁵
- 3.4. On 16 March 2020 Tom Shinner was asked by the Cabinet Secretary to work with the Civil Contingencies Secretariat to develop a dashboard which would provide consistent figures to support the Prime Minister's meetings. This was outlined in a call chaired by the CDL on 17 March 2020 between the Prime Minister's Private Office, Cabinet Office, NHS and DHSC.⁶⁶ It was reiterated in a message from the Prime Minister's private secretary to DHSC on 24 March 2020.⁶⁷ The aim at that point was that the Prime Minister receive a daily update on how the NHS was tracking against its plan. No.10 asked the NHS to provide a small team led by a Senior Civil Servant which could be a single point of authority for all of the data. This led to a more detailed picture of a number of different challenges facing the UK: in this regard the Commonly Recognised Information Picture (or CRIP) of 18 March 2020⁶⁸ can be compared with

⁶¹ CG/64 - INQ000498202; CG/65 - INQ000498203

⁶² CG/66 - INQ000421016

⁶³ CG/67 - INQ000279711, slide 10

⁶⁴ CG/68 - INQ000421011; CG/69 - INQ000051964

⁶⁵ CG/70 - INQ000255088

⁶⁶ CG/71 - INQ000498208

⁶⁷ CG/72 - INQ000320681

⁶⁸ CG/73 - INQ000056187

the Dashboard on 25 March 2020⁶⁹. PPE data was first provided for inclusion on 26 March 2020⁷⁰ and there were repeated improvements as the collated data from DHSC became more precise (see 5 April 2020, when the weeks of stock left was included⁷¹, 16 April 2020, where data on PPE in care homes was separately included⁷²), and following commissions from the Cabinet Office in order to obtain better data⁷³. There was correspondence between Cabinet Office/No.10 and DHSC in relation to this data⁷⁴. The dashboard at the beginning of May 2020 can be compared to its first iteration⁷⁵ to show the increase in the level of detail.

- 3.5. The dashboard was used by No.10, Cabinet Office and other government departments, to provide “one single version of the truth”. It was not principally used for procurement decisions. As set out in the DHSC paper for the HMIG on 2 April 2020 demand at this stage was being assessed and prioritised by the DHSC PPE Operational and PPE Oversight Boards.⁷⁶ The DHSC PPE Plan published on 10 April 2020 also set out how DHSC were monitoring demand.⁷⁷ DHSC also provided a PPE tracker.⁷⁸ From the inception of the PPE Buy Cell this information on demand was set out by Emily Lawson of DHSC at daily meetings (see paragraph 4.325 of the first Cabinet Office corporate statement to Module 5). MHCLG also controlled a LRF PPE tracker.⁷⁹
- 3.6. The PPE Plan was also discussed on 10 April 2020 at a ‘deep dive’ meeting chaired by Dominic Raab (Foreign Secretary and First Secretary of State, who was deputising for the Prime Minister), with a presentation on the plan given by the Health Secretary. The First Secretary of State noted that the Government needed to step in and help social care businesses who were under acute pressure. He said that the PPE plan should be published later that day, following clearance from the No.10 Communications team, as there had been concerns that the PPE guidance was disjointed between departments.⁸⁰

⁶⁹ CG/74 - INQ000174713

⁷⁰ CG/75 - INQ000183917

⁷¹ CG/76 - INQ000083386

⁷² CG/77 - INQ000083660

⁷³ For example, CG/78 - INQ000498259 and CG/79 - INQ000498260

⁷⁴ See for example CG/80 - INQ000477921

⁷⁵ CG/81 - INQ000174730 (see pages 37 and 54)

⁷⁶ CG/82 - INQ000083632. To note, the fact that an item was ‘stocked out’ on the dashboard (see for example CG/83 - INQ000083484, page 39), so that there were none stocked in warehouses did not mean that it was not being provided to hospitals via ‘just in time’ deliveries CG/84 - INQ000498266

⁷⁷ CG/85 - INQ000498256

⁷⁸ CG/86 - INQ000498258

⁷⁹ CG/87 - INQ000498247

⁸⁰ CG/88 - INQ000088663

- 3.7. In response to concerns at the time around the supply and distribution of PPE a rapid review was undertaken by the Prime Minister's Implementation Unit over 14–17 April 2020. The review identified challenges with how the system for supply of PPE was working. The review made 12 specific recommendations within two categories: 1. Immediate need for guidance on shortages, as well as better data reporting and clearer responsibilities; and 2. Stronger communication, acknowledgement of excess use and a more dynamic process for approving products.⁸¹
- 3.8. A further 'deepdive' on PPE requirement planning was held on 21 April 2020, which included an update on UK businesses' offers to manufacture PPE. The DHSC paper circulated provided an update on the situation around: PPE demand; PPE requirement and delivery situation; distribution; and supporting UK manufacturing.⁸² Actions from this meeting included for DHSC to identify whether there were any rules in the procurement process that were slowing down purchasing, one of a number of questions raised by Lord Agnew.⁸³ A response to these questions was provided by DHSC on 23 April 2020, which included the update that no specific procurement process was slowing down buying.⁸⁴
- 3.9. On 27 April 2020, the Prime Minister chaired a further 'deep dive' on PPE. In this meeting the Prime Minister set out the moral and economic case to accelerate the disbursement of PPE to the NHS and other public sector workers. A paper was presented by Jonathan Marron of DHSC which covered supply of levels for different items of PPE and understanding demand and how to manage demand – including the levers being used to manage the gap between supply and demand.⁸⁵
- 3.10. This was followed on 4 May 2020, by a further 'deep dive' on PPE and closing supply gaps, where DHSC presented the department's plan for meeting demand for PPE, including what was being done to close the supply gap.⁸⁶ Actions from this 'deep dive' included: for DHSC, working with PHE, to consider how to publicise again guidance on the use and re-use of PPE where appropriate; and for DHSC to supply specific data on PPE inventories across all NHS trusts. DHSC were also to produce a plan which set out a proposition for the definition of the PPE test (a condition for coming out of

⁸¹ CG/89 - INQ000105541

⁸² CG/90 - INQ000088450

⁸³ CG/91 - INQ000498271

⁸⁴ CG/92 - INQ000498275

⁸⁵ CG/93 - INQ000088482

⁸⁶ CG/94 - INQ000088534

lockdown), including an assessment of when this would be met that was consistent with the data picture set out in the dashboard.⁸⁷

- 3.11. As set out above, the dashboard was based on information collated by DHSC. This was updated when further information was received from DHSC. The dashboard would record on it the date when the relevant item of data had been updated.
- 3.12. As explained above and at paragraphs 4.322 to 4.331 of the first Cabinet Office corporate witness statement to Module 5, the assessment of the demand and stock levels of PPE was primarily the responsibility of DHSC.
- 3.13. DHSC and NHS E/I instituted a system of data returns from NHS Trusts that was piloted in London in March 2020⁸⁸ and thereafter (I believe) was rolled out nationally.⁸⁹ The Cabinet Office does not hold information on the methodology of data-gathering and this was a matter for DHSC.
- 3.14. Given that DHSC was responsible for the modelling of PPE demand, they will be best-placed to explain the extent to which the modelling of PPE demand took into account the need for PPE to be suitable for a range of end users, particularly with regard to women and people from ethnic minority backgrounds, along with whether provision was made within such modelling for the possible success of a vaccine programme.

Local Resilience Forums

- 3.15. As explained in Section 2, the work of LRFs became a more frequent consideration in discussions at Cabinet, COVID-S and COVID-O. However, as above, the task of communicating with the LRFs and providing them with support was for MHCLG, and MHCLG liaised directly with DHSC in relation to PPE where necessary. By way of example:

- 3.15.1. A COBR meeting on 4 March 2020 assigned an action to the Cabinet Office, MHCLG and the MoD to plan what resources would need to be directed to the LRFs.⁹⁰ MHCLG provided an update on 6 March 2020.⁹¹

- 3.15.2. On 6 March 2020 MHCLG recorded that some LRFs had reported

⁸⁷ Full list of actions is available here: CG/95 - INQ000088672

⁸⁸ CG/96 - INQ000498232; CG/97 - INQ000498233

⁸⁹ CG/98 - INQ000498254

⁹⁰ CG/99 - INQ000061643

⁹¹ CG/100 - INQ000498201

supply chain issues for certain goods, in particular hand sanitiser and PPE, and circulated responses to the LRFs.⁹² They also circulated a link to the page containing the list of PPE supplies being considered as part of the DHSC stockpiling exercise.⁹³ There were thereafter a number of LRF Chairs calls run by MHCLG at which DHSC or MHCLG addressed the LRF Chairs on PPE.⁹⁴

- 3.15.3. On 31 March 2020, Cabinet discussed how LRFs were working on an emergency footing in England and Wales.⁹⁵
- 3.15.4. LRFs and PPE supply was also discussed at a COVID-S meeting on 7 April 2020.⁹⁶ MHCLG prepared a slide deck for this meeting which highlighted common challenges being faced by all LRFs as of April 2020, including the provision of PPE.⁹⁷ The difficulties involved in distribution to LRFs were also identified in the Prime Minister's Implementation Unit's review of PPE concluded on 17 April 2020 (see paragraph 3.7 above).
- 3.15.5. By 19 April 2020 MHCLG had updated the LRF dashboard and the improvements were presented at the GPSMIG on 20 April 2020.⁹⁸ At that meeting it was recorded that DHSC and MHCLG were to work to ensure sufficient input of data from local NHS to the LRF dashboard to support planning in areas such as adult social care.⁹⁹
- 3.15.6. On 23 April 2020, Cabinet noted that LRFs had been bolstered by embedded military planners.¹⁰⁰
- 3.15.7. DHSC was from 16 April 2020 chairing an OGD ("Other Government Departments") PPE board in order to facilitate distribution of PPE to other government departments.¹⁰¹ On 23 April 2020 it was recorded that the Cabinet Office had requested a broader, more sustained and strategic cross-government approach to PPE. Various departments

⁹² CG/101 - INQ000498204

⁹³ CG/102 - INQ000498200

⁹⁴ e.g. CG/103 - INQ000498239; CG/104 - INQ000498251

⁹⁵ CG/105 - INQ000088891

⁹⁶ CG/106 - INQ000088609

⁹⁷ CG/107 - INQ000088360

⁹⁸ CG/108 - INQ000498270; CG/109 - INQ000083466.

⁹⁹ CG/110 - INQ000083470

¹⁰⁰ CG/111 - INQ000089067

¹⁰¹ CG/112 - INQ000498272

made requests of DHSC and others, including that the data concerning distribution of PPE by LRFs be shared with other departments, which MHCLG agreed to do.¹⁰²

Pandemic Influenza Preparedness Programme (PIPP) stockpile

3.16. As stated above, distribution of PPE from the PIPP stockpile was a DHSC responsibility. In terms of the overall stock levels, the information provided to the Cabinet Office in the early stages of the pandemic was that the stock was generally sufficient. The agenda for the 'Coronavirus impacts on Supply chains and Sector Engagement' meeting on 13 February 2020¹⁰³, stated as follows: "Currently national stock holdings are sufficient to meet current demand and PIPP stockpile is being held in reserve to support any required response to a surge or pandemic escalation in the UK." The readout confirmed that DHSC stated that "Direct treatment is supported by existing pan flu stockpiles."¹⁰⁴ The Civil Contingencies Secretariat was, however, made aware of what were said to be problems of local distribution of PPE generally. For example, on 15 March 2020, SCCL informed the Cabinet Office that while some lines of PPE in the PIPP stockpile had run out there was still stock in all categories, although gowns were in short supply and in the eye protectors category, while safety glasses were available visors were not.¹⁰⁵ However, although local distribution issues were referred to in the letter dated 17 March 2020, sent by NHSE/I to the Chief Executives of all NHS trusts, clinical commissioning group accountable officers, GP practices and primary care networks and providers of community health service, it was restated in this letter that DHSC's view was that there was adequate national supply:¹⁰⁶

3.16.1. "In respect of PPE, the DHSC procurement team reports that nationally there is currently adequate national supply in line with PHE recommended usage, and the pandemic influenza stockpile has now been released to us. However locally distribution issues are being reported. Michael Wilson, chief executive of SASH [Surrey and Sussex Healthcare NHS Trust], is now helping resolve this on behalf of the NHS. In addition if you experience problems there is now a dedicated line for you: 0800 915 9964/ 0191 283 6543 / Email: supplydisruptionsservice@nhsbsa.nhs.uk"

¹⁰² CG/113 - INQ000498276

¹⁰³ CG/114 - INQ000498198

¹⁰⁴ CG/115 - INQ000498199

¹⁰⁵ CG/116 - INQ000496689

¹⁰⁶ CG/117 - INQ000249079

- 3.17. The update provided by DHSC at the HMIG on 20 March 2020 similarly reported steps being taken to address local stock issues: “Hospitals that had reported limited stock of PPE had received emergency deliveries. 150 hospitals had now received automatic allocation of PPE and all trusts would receive one by the end of that weekend.”¹⁰⁷
- 3.18. A further potential issue which was raised was the release of PPE to social care providers:
- 3.18.1. An email from the Civil Contingencies Secretariat on 20 March 2020, stated that social care “may be struggling to access” the PPE PIPP stockpile.¹⁰⁸
- 3.18.2. At the HMIG on the same day, DHSC reported that “A plan to give PPE to social care providers would be completed the following week”.¹⁰⁹
- 3.19. With regards the ability of government departments other than DHSC to access PPE, on 17 March 2020 the Civil Contingencies Secretariat commissioned the GCF, alongside DHSC, to produce a report on the demands for PPE across the public sector (i.e. looking at non-healthcare demand). GCF issued its report on 19 March 2020.¹¹⁰
- 3.20. This was also an issue raised with the Cabinet Office at the PPE stock level meeting on 17 March 2020, and in particular the question as to whether OGDs could access PPE from the PIPP stockpile. It was confirmed in email following the meeting that it was a matter for the Secretary of State for Health as to whether OGDs could access the PIPP stockpile, as it was just for health and social care. However, if such access was granted, it would then be a cross-government decision, including the Cabinet Office, as to which OGD requests to prioritise.¹¹¹
- 3.21. The GCF report on 19 March 2020 addressed the requests from OGDs in its section on the ‘Governance of PIPP stockpile’.¹¹²
- 3.21.1. “DHSC Secretary of State is of the view that the PIPP stockpile needs to be considered as part of the NHS supply chain, due to the increasing pressures that hospitals and the wider social care system are facing. He has asked for a review to identify the minimal amount of

¹⁰⁷ CG/116 - INQ000496689

¹⁰⁸ CG/118 - INQ000105492

¹⁰⁹ CG/119 - INQ000055934

¹¹⁰ CG/120 - INQ000498213; CG/121 - INQ000513323

¹¹¹ CG/122 - INQ000498210

¹¹² CG/121 - INQ000513323

equipment that Other Government Departments need but is clear that the health and care system will need to be the main priority.

- 3.21.2. A process for firstly prioritising cross Government asks is required to enable Secretary of State or an official he has delegated to decide what support can be provided to non-health care sectors in line with guidance on PPE usage from PHE. DHSC are reviewing their internal processes and operations for supply chain management to enable agile decisions to be made on the stock.”
- 3.22. The Cabinet Office has not found evidence of issues with the expiry of PPE in the stockpile being raised at the PIPP Board prior to the pandemic (however the minutes show there was a discussion of the expiry of vaccines in the PIPP stockpile).
- 3.23. To the best of my understanding, the Cabinet Office was not made aware of issues relating to the expiry of PPE held in the PIPP stockpile in January to April 2020. The concern that PPE in the PIPP stockpile was out-of-date first came to the Cabinet Office’s attention from a Channel 4 investigation published on 7 May 2020.¹¹³
- 3.24. The DHSC press office published a response on 8 May 2020 which addressed Channel 4’s assertion that PPE in the stockpile was out-of-date (the Cabinet Office was not involved in this response):¹¹⁴
- 3.24.1. **“Claim – stockpile was incomplete and out of date.** Every single piece of PPE deployed to the frontline from the stockpile was rigorously tested and met the high standard required. Stocks of facemasks and FFP3 respirators along with other items of PPE are stored in controlled and monitored conditions and this means that stocks are more likely to be fit for use beyond normal expiry dates. Where appropriate, in line with HSE advice, facemasks and FFP3 respirators are independently tested to ascertain whether their shelf life can be extended. The products that pass these tests are subject to relabelling with a new shelf-life (as appropriate) and remain safe for consumption by the NHS and Social Care.”
- 3.25. The information subsequently provided to the Cabinet Office in relation to the PIPP stockpile came from DHSC.

¹¹³ CG/123 - INQ000498365

¹¹⁴ CG/124 - INQ000498366

- 3.25.1. In January 2021, as part of its information gathering to assist Boardman 2, the Cabinet Office was provided by SCCL with a summary spreadsheet on the PIPP stockpile quantities as of 31 January 2020. This spreadsheet stated that c.112m of the 439m items in the PIPP stockpile as of 31 January 2020 were out of date. However, the covering email from SCCL stated that “To note, there’s a column that shows out of date stock but some of that was subject to later testing to allow it to be released.”
- 3.25.2. The review document referred to and exhibited at paragraph 4.285 of the first Cabinet Office corporate statement to Module 5 was an update provided by DHSC on 18 August 2021.
- 3.26. One of the recommendations (recommendation 8) of Boardman 2 (published 7 May 2021) was that this stockpile should be managed to avoid out of date stock:
- 3.26.1. “The New and Emerging Respiratory Virus Threats Advisory Group (NERVTAG) should review stockpile requirements for a broader range of diseases than influenza, and for non-hospital settings. The stockpile should be actively managed to avoid out of date stock.”
- 3.27. The implementation of this recommendation, which was accepted by the Government, was to be led by DHSC (with the Cabinet Office having overall oversight of all recommendations) and had an implementation timeline of 9 months.¹¹⁵ The implementation of the recommendations from Boardman 2, including recommendation 8, is referred to at paragraphs 6.47 to 6.52 of the first Cabinet Office corporate witness statement to Module 5.
- 3.28. A GIAA report titled ‘Boardman (2) – Review of action completion across Departments, Final Internal Audit Report’ and dated February 2022, was commissioned to assess progress on the implementation of the Boardman 2 recommendations. This report provided a summary of the steps taken to implement recommendation 8, saying that: “All aspects of this recommendation are being taken forward as part of an Emergency and Clinical Countermeasures Review (ECCR), which was commissioned by the DHSC Pandemic Preparedness Program (PPP) Board, and is being overseen by a dedicated Emergency and Clinical Countermeasures Advisory Board (ECCAB).” The report goes on to cite the creation of the PPE cell; work undertaken to review stockpiles and improve preparedness; the work of ECCR with NERVTAG; the work of

¹¹⁵ CG/125 - INQ000105860, p152.

the ECCAB subgroups, including that the Worst Case Scenarios Group (WCSG) completed a new set of scenarios to establish the main threats; and a further three separate product-specific subgroups had been formed looking at PPE, medicines, and clinical consumables.¹¹⁶

PPE Capacity

- 3.29. The Inquiry has asked what meetings Cabinet Office officials attended or convened with the DHSC and/or UKHSA (then PHE) to discuss the need for PPE beyond the capacity of the PIPP stockpile. In addition to the meeting convened by the Civil Contingencies Secretariat (described above), on 14 March CDL convened a call including GCCO, Lord Agnew, and Health staff including Emily Lawson (NHS) and Steve Oldfield (DHSC CCO)¹¹⁷. This was followed by a meeting on 15 March¹¹⁸. CDL asked for these meetings to be held daily from 16 March 2020¹¹⁹.
- 3.30. Lord Agnew took over the chair of these meetings on 19 March 2020 and called one on 20 March¹²⁰. On the agenda were ventilators, test supplies, oxygen and PPE¹²¹.
- 3.31. As stated in the first Cabinet Office Corporate witness statement to Module 5 at paragraph 4.294, on 16 March 2020 Jin Sahota, CEO of SCCL emailed a presentation to the GCCO that had been prepared by the DHSC head of resilience¹²². This said that while PPE buying should continue to be undertaken by SCCL, this would need to be augmented by two further 'waves' of buying – a "Wave 2" that set up onshore manufacture, and a "Wave 3" that looked at non-health suppliers of PPE (presumably meaning suppliers to industrial markets). Jin Sahota made the suggestion that Waves 2 and 3 needed to be performed by someone other than SCCL. The GCCO emailed Emily Lawson and Steve Oldfield saying that he thought this was a sensible approach. Emily asked that no action be taken until she and Jin Sahota had resolved how this should be done.¹²³
- 3.32. On 19 March 2020 the Civil Contingencies Secretariat commissioned¹²⁴ the Markets and Suppliers team of the GCF to produce a market summary of PPE¹²⁵. A rapid report

¹¹⁶ CG/126 - INQ000092632, p21.

¹¹⁷ CG/127 - INQ000498205

¹¹⁸ CG/128 - INQ000498206 - actions from meeting.

¹¹⁹ CG/129 - INQ000498207

¹²⁰ CG/130 - INQ000498214 - 19 March 2020; CG/131 - INQ000498215 - 20 March 2020.

¹²¹ CG/132 - INQ000513324 - Readout from meeting.

¹²² CG/133 - INQ000498209

¹²³ CG/134 - INQ000498211

¹²⁴ CG/118 - INQ000105492

¹²⁵ CG/121 - INQ000513323

was provided which identified Bunzl and Arco as key UK distributors. This document also summarised demand from OGDs and contained an estimate of how long stocks (including PIPP stock) would last in the face of current experienced demand.

- 3.33. On 21 March 2020, CTT started providing commercial support for PPE buying, as described in the first Cabinet Office corporate witness statement to Module 5 at paragraph 4.306.
- 3.34. On 22 March 2020, a Supply Battleplan¹²⁶ was written and this was presented to a HMIG meeting on 24 March 2020 at 11.15am. The MIG Secretariat feedback asked questions of the battleplan, suggesting that a number of data points needed more scrutiny and this should be raised with the NHS or responsible lead, and querying the status of local PPE stocks in NHS trusts (as opposed to national stocks in central warehouses).¹²⁷ The minute also recorded from the discussion that: “many private companies have offered support with production or procurement of supplies and tracking those offers is important”.¹²⁸

Push model for distribution of PPE

- 3.35. The Inquiry has also asked about the “push model” for distribution of PPE, which was established from the beginning of the parallel Supply Chain in March 2020 and was referred to in the DHSC PPE Strategic Plan of 10 April 2020.¹²⁹ Distribution was a DHSC responsibility, carried out by contractors under the management of MoD personnel as described in the first Cabinet Office corporate witness statement at paragraph 4.302. Under this “push model” a calculation was made of the amount of PPE that a given recipient should be sent, based on the likely caseload of that recipient. It was not always possible to completely meet all these calculated needs at times when stock was in short supply, so in some cases only a proportion of the calculated need for a particular product could be sent. These decisions were made at a daily ‘Pick List’ meeting chaired by Jonathan Marron of DHSC, with representatives present from the PPE Buy Cell to inform the group on the likely arrival of incoming stock.¹³⁰ On 13 April 2020, Tom Shinner requested a review into the arrangements for making and distributing PPE, including the ‘push model’, which resulted in a ‘deep

¹²⁶ CG/136 - INQ000055928

¹²⁷ CG/137 - INQ000498227; CG/138 - INQ000498228

¹²⁸ CG/139 - INQ000055942

¹²⁹ CG/140 - INQ000498257

¹³⁰ CG/141 - INQ000498274

diver' review undertaken by the Prime Minister's Implementation Unit and Health MIG between 14 and 17 April 2020.¹³¹

- 3.36. At a 'Pick List' meeting on 15 June 2020, Martin Plant of DHSC was tasked with preparing for a staged return to 'normal' distribution based on a 'pull model'. In a 'pull model' stock is distributed to recipients based on their explicit requests. It would appear that this staged return was still being considered in August 2020 (after the end of Cabinet Office involvement in PPE buying), as the transition back to the pre-pandemic state was made more difficult by the greatly increased stock of PPE held.¹³²

Estimating how much PPE to buy

- 3.37. The report provided by DHSC to the Public Accounts Committee on 21 June 2023 said that it had acquired, as a result of the PPE Buy Cell activity, a total of 39bn items of PPE.¹³³ The report goes on to say that this quantity of PPE exceeded the current and forecast demand for PPE from the health and social care sector. The PPE Buy Cell was only tasked to acquire PPE for the health and social care sector, and not for other public services.
- 3.38. As previously described in the first Cabinet Office corporate statement to Module 5 at paragraph 4.322, the buying activity undertaken by Cabinet Office officials in the PPE Buy Cell was driven by demand set by the NHS and DHSC. This demand was expressed in different ways as processes matured, better information became available and the evolution of the pandemic progressed. The following paragraphs explain how this 'demand signal' developed.
- 3.39. The report on the PPE market prepared by the Markets and Suppliers team in the GCF on 19 March 2020¹³⁴ (at Page 14) contains a chart with DHSC's view of how long PPE stocks (including the PIPP stock described in the first Cabinet Office corporate statement to Module 5 in para 4.293) would last in the face of 'pandemic' demand. This estimated that stocks of Aprons and FFP3 respirators would last less than 2 weeks, stocks of IIR masks 2 weeks, and stocks of Gowns 7.5 weeks.
- 3.40. As discussed in the first Cabinet Office corporate statement to Module 5 at paragraph 4.306, from the inception of the PPE Buy Cell in March 2020, daily meetings at 8.30am

¹³¹ CG/142 - INQ000533250; CG/89 - INQ000105541

¹³² CG/143 - INQ000498306

¹³³ CG/144 - INQ000498336

¹³⁴ CG/121 - INQ000513323

led by Emily Lawson, CCO of NHS E/I identified the categories of goods that were in demand or close to stocking out. In March 2020 and early April 2020, no specific maximum quantities of goods were requested as it was believed (by those managing the effort to buy PPE) that the Health and Social Care sector could use every item of PPE that the PPE Buy Cell could obtain. The results of Emily Lawson's meetings were immediately cascaded to the team leaders of the PPE Buy Cell in a daily meeting at 9.30am.¹³⁵

3.41. This short term prioritisation continued through the earliest weeks of the pandemic (late March–early April 2020). The management of the PPE Buy Cell recognised that in order to perform medium term planning, a system of targets for each category would be needed. This would assist in understanding how to prioritise supplier relationships and where to form category teams to address 'hot' categories. From 30 April 2020 the PPE Buy Cell established a system of demand planning for each category of PPE described in the first Cabinet Office corporate statement to Module 5 (paragraph 4.308). The first preliminary discussions in relation to this were on 18 April 2020. DHSC's procurement consultants, Efficio, undertook the detailed work of creating the buying plan under the direction of PPE Buy Cell managers.

3.42. This detailed plan took as its starting point the 'McKinsey model' which, as described in Adrian Lovelock's email dated 9 June 2020,¹³⁶ was based on:

3.42.1. PHE guidance on what equipment should be worn in each specific medical scenario.

3.42.2. PHE guidance on the replacement of PPE between medical activities.

3.42.3. Assumptions and PHE guidance on reuse of PPE.

3.42.4. Assumption of the number of specific medical activities requiring PPE being carried out in both COVID and Non-COVID-19 environments. This assumption was partially driven by estimates of COVID-19 caseload in the RWCS.

3.43. The Buying Plan split this demand between the three principal buying streams (SCCL, China Buy and UK Buy/new opportunities) and the 'UK Make' stream, which was establishing on-shore UK manufacturing capability. The Buying Plan factored in 'leakage' (at 5%), which reduced buying targets by the amount that users were

¹³⁵ as documented in Daily PPE update CG/145 - INQ000513332

¹³⁶ CG/146 - INQ000498292

assumed to source independently, and increased targets by 'supply risk' (or 'shrinkage'), which were assumptions of loss of product, either through failure to be delivered or failure to meet quality or other requirements once inspected on arrival. These 'shrinkage' factors varied by buying channel, but averaged across all channels meant that targets were raised by about 20%. These shrinkage allowances were reduced over time as experience showed that stock was successfully being delivered from producer locations.

- 3.44. The Buying Plan also showed a pipeline of opportunities and committed orders for each category of product, split by buying stream. The gap between demand and opportunities/orders established a target for each category for the buyers in that stream. The Buying Plan included forecasts and projections of supply from the current date to the end of 2020. The principles behind the Buying Plan were first discussed on 26 April 2020.¹³⁷ A Buying Plan with revised targets is exhibited dated 15 May 2020.¹³⁸
- 3.45. Initial Buying Plans only targeted meeting demand, and did not include the intention to build 'safety stock' (against short-term fluctuations in demand or interruptions to supply) or re-establish strategic stocks against future waves of the pandemic. These were later added, including the explicit target to acquire 4 months of stock by November 2020 against the targets set by the 'McKinsey' model (see paragraph 4.474 of the first Cabinet Office corporate statement to Module 5). This target (of 4 months of stock) was linked to the explicit conditions set by No.10 for leaving lockdown in June 2020, as discussed in paragraph 3.62 below. In addition modelling took place to include adding extra 'pre-Covid' NHS activity to the demand figures (for example reopening elective surgery).¹³⁹ The 'McKinsey' model was produced by consultants working under DHSC supervision.
- 3.46. The Buying Plan was reviewed in weekly Medium Range Planning meetings chaired by Jonathan Marron, Director General, Community and Social Care, DHSC, and attended by management from the PPE Buy Cell, SCCL and a number of senior officials from DHSC and the NHS. These meetings were held weekly (and occasionally more frequently) from 30 April 2020.¹⁴⁰
- 3.47. As described in the first Cabinet Office corporate statement to Module 5 at paragraph 4.336, the Buying Plan was reviewed at least twice weekly (from 8 May 2020) by Andy

¹³⁷ CG/147 - INQ000498279; CG/148 - INQ000533253

¹³⁸ CG/149 - INQ000498286

¹³⁹ CG/150 - INQ000513328 (slide 4)

¹⁴⁰ CG/151 - INQ000498322

Wood (or in his absence, Chris Hall) to inform tactical management of the PPE Buy Cell. This review meeting looked at each category where there was a predicted shortfall, and buying stream managers were asked about the quality of the opportunities pipeline and actions that needed to be taken to close shortfalls. An example output from one of these meetings is exhibited.¹⁴¹ As stated earlier, the gap between target and possible supply (opportunities and committed orders) was split by buying channel. The PPE Buy Cell's preference was to use established SCCL suppliers, then if that channel was overloaded, pursue direct deals with Chinese producers and wholesalers (contacted via the Beijing Embassy) and then after this use 'UK Buy' sources that had contacted or been referred to the PPE Buy Cell. This prioritisation was based on an assessment of the likelihood of successful delivery (as reflected in the 'shrinkage' estimate for that buying channel). In June 2020 UK manufacturing ("UK Make") became a firmer proposition and a more certain source of supply.

- 3.48. These buying targets, with a few exceptions, were relatively stable over the period between the first preliminary discussion on 18 April 2020 and the final issued version of the buying plan on 25 June 2020. The table below shows the evolution of targets for key categories over this period. All figures are in millions of eaches¹⁴² per day.

Evolution of PPE Buying Targets, April-June 2020

Category	18 April 2020	3 May 2020	8 May 2020	25 June 2020
Gowns	0.45	0.45	0.4	0.54
IIR	4.6	4.8	4.5	10.6
FFP3	0.45	0.44	0.4	0.49
Gloves	23.1	42.7	40	39.9
Aprons	19.5	20	19.6	19.3
Eye Protection	3.5	3.8	3.6	5.3

- 3.49. From the end of May 2020 the PPE Buy Cell had appointed individual category leads to take an 'end-to-end' view of sourcing for the categories in the table above (one

¹⁴¹ CG/152 - INQ000498283

¹⁴² 'Eaches' are units in the precise context of the commodity being bought. An 'each' is the unit of supply to an individual consumer, as opposed to a case which might be the unit distributed to a stocking location.

category lead covered both 'FFPx' respirators and IIR masks, and Aprons were included in a 'Films' category which also included waste bags). As part of the changes in management structure of the PPE Buy Cell from June 2020 it was proposed to move from the Buying Plan based on the 'McKinsey' model forecasts to S & OP (Sales and Operational Planning), a demand-led methodology that balanced sales (in this case, actual demand) with production (from suppliers) and shipping/distribution capacity. Category leads would take responsibility for maintaining this balance for the product items in their category.

- 3.50. On 9 June 2020 the category lead for eye protection (goggles and visors) was informed by Emily Lawson that his team should stop buying eye protection and there was a big discrepancy between the demand that was being shipped and the forecasts for supply. As an example, the McKinsey model forecasted that demand for eye protection in July 2020 was for 236.5m units, and DHSC's figure for the "indicative level" of weekly demand was 3.7m units/week in June (equivalent to about 16.4m units/month or 7% of the July target).¹⁴³ The buying team expressed concern that the usage assumptions underpinning the McKinsey model (including reuse, equipment worn for particular procedures and frequency of changing PPE) might not be reflective of actual practice.
- 3.51. From mid June 2020 it was apparent that demand (as actually experienced) was well below forecasts in several categories. As an example, on 17 June 2020 the Gloves category examined a scenario where experienced demand was 120m gloves/week rather than the forecast 300m.¹⁴⁴ If demand had been stable at 120m gloves/week there would have been no further need to order gloves during the rest of 2020.
- 3.52. By 18 June 2020 buying had been stopped for eye protection and all other categories except FFP3 respirators, gloves and sterile surgical gowns.¹⁴⁵ As far as I am aware, in preparation for a discussion with HMT about the spending approved for PPE, it was suggested by DHSC that some buying continued (spending a further £2.75Bn) in order to ensure deliveries continued into the first half of 2021.
- 3.53. On 25 June 2020 edition 7 of the buying plan was issued. The notes issued alongside this plan said that all buying had now ceased apart from FFP3 respirators.¹⁴⁶
- 3.54. Some contracts were let after this date. These were for sterile surgical gowns, FFP3

¹⁴³ CG/146 - INQ000498292

¹⁴⁴ CG/153 - INQ000498293

¹⁴⁵ CG/154 - INQ000513346 - Finance Meeting 18 June presentation

¹⁴⁶ CG/155 - INQ000498294

respirators or UK production of PPE as part of commitments made to UK producers under the 'UK Make' programme to build sovereign capacity.

- 3.55. In conclusion, the PPE Buying Cell conducted buying activity during May and June 2020 using a buying plan that was driven by a DHSC core estimate of how much PPE was needed based on projected usage (the McKinsey model) and constructed by Efficio, DHSC's procurement consultants. This plan was widely shared through a set of planning meetings chaired by Jonathan Marron of DHSC, the SRO of the programme. From early June 2020 concerns were raised that the buying targets set by this process exceeded experienced demand, starting with the eye protection category and spreading to other categories by the end of June 2020. As a result buying activity ceased, apart from the special situations mentioned in paragraph 3.54 above.
- 3.56. As stated in the first Cabinet Office corporate statement to Module 5 (paragraph 4.494), the amounts of PPE purchased between March and June 2020 resulted in large stocks, as demand did not materialise in line with the estimates of the buying plan. The statement suggested six reasons for this. Figures cannot be reliably calculated so as to establish the relative contribution of each of these reasons; however one reason for overstocking is that the delivery performance of the contracts was higher than anticipated. As stated in paragraph 3.43 above, the demand forecast in the 'McKinsey' model was inflated by approximately 20% to allow for the fact that, in a turbulent market place, a proportion of contracts would not be honoured, or that product, on arrival, would be assessed as not fit for purpose. While full outturn figures should be sought from DHSC, the Cabinet Office understands that evidence given to parliament in 2023 stated that almost all of the ordered stock was delivered, only 3.6% of ordered stock by volume was 'not fit for any purpose' and a further 6.3% was not supplied to the NHS, for example because alternative stock which better met NHS requirements was available. This meant that instead of 20% "shrinkage" DHSC experienced approximately 10%.
- 3.57. A significant factor in the generation of excess stock over the whole pandemic was the success of non-pharmaceutical interventions and the vaccine programme in reducing the impact of the pandemic. The 'McKinsey model' was based on the RWCS forecast of 520,000 deaths as a result of COVID-19 (as discussed in the first Cabinet Office corporate statement to Module 5 at paragraph 4.331) and DHSC, with the support of the Cabinet Office and other departments who were part of the PPE Buy Cell, was purchasing PPE to combat a predicted outbreak at that level.¹⁴⁷

¹⁴⁷ CG/156 - INQ000498334

PPE supply and the ending of lockdown

- 3.58. The supply of PPE was taken into account prior to announcing the end of the first lockdown in 2020.
- 3.59. Under Regulation 3 of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, which brought the lockdown restrictions into law, the Secretary of State for Health was required to review the need for the restrictions and requirements every 3 weeks, with the first review being carried out on 16 April 2020.
- 3.60. PPE was not referred to in the first review, which was focused on social distancing.¹⁴⁸ The review, in light of a report from SAGE dated 14 April 2020¹⁴⁹, recommended maintaining the then current measures.
- 3.61. The need for clear conditions for easing the lockdown restrictions was discussed at the Cabinet meeting¹⁵⁰ and a COBR meeting¹⁵¹ on 16 April 2020.
- 3.62. When announcing the continuation of the lockdown measures at the daily press briefing on 16 April 2020, the Deputy Prime Minister set out 5 tests to be met for coming out of lockdown.¹⁵²
- 3.63. The 5 tests were subsequently included in the document 'Our plan to rebuild: The UK Government's COVID-19 recovery strategy' presented to Parliament by the Prime Minister on 11 May 2020 and are also explained in the first Cabinet Office corporate statement to Module 5 at paragraph 4.498.¹⁵³ The supply of PPE formed part of test 4, "Be confident that the range of operational challenges, including testing capacity and PPE, are in hand, with supply able to meet future demand".
- 3.64. The clear direction from DHSC was that it wanted to have 4 months' worth of stock for each type of PPE in the country and available for distribution by November 2020.¹⁵⁴
- 3.65. For the second 3 week review, the Secretary of State for Health and Social Care issued a paper on 7 May 2020 which recommended that the social distancing measures be maintained and asked the Cabinet to agree.¹⁵⁵ The report referred to DHSC implementing a plan to provide sufficient PPE to care homes.

¹⁴⁸ CG/157 - INQ000498265

¹⁴⁹ CG/158 - INQ000498264

¹⁵⁰ CG/159 - INQ000089020

¹⁵¹ CG/160 - INQ000083827

¹⁵² CG/161 - INQ000086576

¹⁵³ CG/162 - INQ000089917

¹⁵⁴ CG/163 - INQ000498296; CG/164 - INQ000513335

¹⁵⁵ CG/165 - INQ000498282

- 3.66. At the Cabinet meeting on 7 May 2020, the Prime Minister stated, when referring to the 5 tests, that more needed to be done on the supply of PPE.¹⁵⁶
- 3.67. At the Cabinet meeting on 25 May 2020, the Prime Minister explained that there were positive signs against the 5 tests, including that “progress had been made on key operational challenges including testing and the supply of personal protective equipment (PPE).”¹⁵⁷ As a result, the Prime Minister stated that it would be possible to start to relax some of the social distancing measures later that week.
- 3.68. The third formal 3 week review was carried out on 27 May 2020. The evaluation of PPE for test 4 was as follows:¹⁵⁸
- 3.68.1. “Lord Deighton confirmed on Thursday 21 May that DHSC will meet NHS acute requirements for the next seven days and that social care settings are meeting their PPE requirements with limited emergency support.¹⁵⁹ This continues to be his assessment. There is a plan to secure the supply of PPE for health and care over the next 90 days, via supply from abroad, and to establish a UK PPE manufacturing base. While plans are on track, risks remain. Work is underway to confirm that existing orders will meet their scheduled delivery dates, to improve the robustness of DHSC’s 90 day plan.”
- 3.69. On 28 May 2020, the Prime Minister gave a press conference in which he announced that the Government considered that the 5 tests were being met and that the lockdown restrictions would be adjusted from Monday 1 June 2020. On test 4, the Prime Minister explained that:
- 3.69.1. *“I fully acknowledge the difficulties on testing and PPE that we have faced since the start of the outbreak. It has been immensely frustrating, but we are now making progress.*
- 3.69.2. *Yesterday we carried out 119,587 tests, compared to around 12,000 at the start of April. Testing capacity has now increased to 161,214 a day.*
- 3.69.3. *We have now signed over 100 new deals with PPE suppliers around the world. Here in the UK, thanks to the efforts of Lord Deighton and*

¹⁵⁶ CG/166 - INQ000183933

¹⁵⁷ CG/167 - INQ000089074

¹⁵⁸ CG/168 - INQ000183937

¹⁵⁹ CG/169 - INQ000498289

his team and the brilliance of domestic manufacturers we have signed contracts for over two billion items of PPE, including facemasks, visors, gowns and aprons.

- 3.69.4. *We are therefore satisfied that the fourth test is being met and we can start to rebuild stocks – though we recognise there may be some settings that require urgent restocking on occasion.”¹⁶⁰*

The High Priority Lane (HPL)

Formation of the HPL

- 3.70. In this section I explain how the High Priority Lane was set up and how it evolved.
- 3.71. The factual background is, as explained in the first Cabinet Office corporate statement to Module 5, that the PPE Buy Cell was established on 21 March 2020 and started operations on 22 March 2020. Initially the PPE Buy Cell comprised a small team from the Complex Transactions Team in the Cabinet Office, supported by consultants from Baringa under a ‘cosourcing’ agreement intended to provide supplementary resources from external consultancies. Several of the team members colocated with DHSC and NHS E/I management in Skipton House in South London.
- 3.72. The PPE Buy Cell formed part of DHSC’s Parallel Supply Chain which was led by Emily Lawson of NHSE/I and Jonathan Marron of DHSC.
- 3.73. The PPE Buy Cell started developing its processes and procedures to procure PPE from scratch.
- 3.74. At the same time, offers of support had already been received. Around 400 opportunities had been received either by GCF, SCCL, the NHS or DHSC by 20 March 2020,¹⁶¹ before the PPE Buy Cell was established. The PPE Buy Cell started processing these opportunities immediately. This activity was led by a consultant from Baringa, who had been assigned to DHSC along with individuals from CTT referred to at paragraph 4.306 of the first Cabinet Office corporate statement to Module 5 on 21 March 2020.
- 3.75. The opportunities which had been received came from a wide range of suppliers who wanted to supply PPE during the pandemic. There was a backlog of offers. Some offers had been made to SCCL, the DHSC body that traded as “NHS Supply Chain”

¹⁶⁰ CG/170 - INQ000086790

¹⁶¹ CG/171 - INQ000498218

and which had bought the majority of PPE for NHS trusts before the pandemic. SCCL bought PPE from a set of established suppliers under framework arrangements, and did not have processes, resources or IT capacity for dealing with large numbers of unsolicited offers from other suppliers.

- 3.76. Other offers had been routed via a Cabinet Office mailbox operated by the Government Commercial Function (GCFcovid19enquiries@cabinetoffice.gov.uk), which was receiving offers of help for all types of products and services which might assist during the pandemic (other than those for ventilators, which were directed elsewhere). Still others had been sent to the personal mailboxes of senior DHSC and NHS E/I managers who were leading the efforts to buy PPE.
- 3.77. As described in the first Cabinet Office corporate statement to Module 5 at paragraph 4.482, an online questionnaire had been set up on or before 20 March 2020 to allow some basic details regarding offers to be collected, including contact details for the potential supplier, and some characteristics of the products offered. Offers started to be received via this webform from around 20 March 2020. This was the preferred method of contact for the PPE Buy Cell, but there was some concern that the general quality of leads on this form was poor.¹⁶²
- 3.78. However, as knowledge of the PPE Buy cell spread, more people across Whitehall contacted the senior DHSC and NHS E/I managers who were leading the cell directly. DHSC Ministers also received many emails from potential suppliers, and forwarded these to these managers. So many offers were received that it was difficult for these managers to undertake other business from their mailboxes.
- 3.79. By 22 March 2020 Lord Bethell, then Parliamentary Under-Secretary of State for Innovation at DHSC, appointed Lord Feldman as a senior DHSC envoy to engage at high level with the large numbers of offers of support, and Lord Feldman's office sent a tracker of contacts that he had made to the PPE Buy Cell.¹⁶³ Lord Feldman subsequently made many referrals to the PPE Buy Cell over the next three months.
- 3.80. The PPE Buy Cell team that was working in Skipton House was working in an open area adjacent to the offices of the DHSC and NHS E/I managers. To help process the volume of incoming emails, on or around 22 March 2020 the consultant leading the review of offers was asked by Emily Lawson to be a point of contact for "good-looking

¹⁶² CG/172 - INQ000498219

¹⁶³ CG/173 - INQ000498220

leads via ministers, industry etc” and put in contact with Lord Bethell, a minister in DHSC, who had referred a number of leads.¹⁶⁴

- 3.81. By this time, the initial PPE Buy Cell team was growing, and within a few days three volunteers from the commercial team in the Department for Education were allocated to help the Baringa consultant referred to above to process these offers. Approximately 20 other caseworkers had been assigned to process offers that had come in via the webform mentioned in paragraph 3.77 above.
- 3.82. On 24 March 2020, Andy Wood, the PPE Buy Cell leader sent a readout of a virtual meeting with Lord Agnew, Minister of State at the Cabinet Office and HM Treasury which had taken place the previous day.¹⁶⁵ Lord Agnew had asked if a “fast track” could be set up to process “ministerial/seniors emails regarding offers of help that they were sending through”.
- 3.83. The office of Gareth Rhys Williams, which was receiving emails offering help through the GCFcovid19enquiries email address as set out above, was likewise being overwhelmed by emails. On 27 March 2020 a note was provided to the CDL and No.10 which set out at a high level the ways in which offers for help were being received and processed, and noted, in respect of the PPE Buy Cell: “the newly stood-up team needs space to operate – they are receiving too many ad hoc requests on which they are being chased which often are for products which don’t meet the technical specifications or are bogus”. That team also continued to receive feedback on the frustration of ministers who were keen to know that the system was working effectively.¹⁶⁶
- 3.84. The team structure of the Buy Cell as of 28 March 2020 recorded the Baringa consultant referred to above as being “High Priority & VIP Assessment and Closing Lead”.¹⁶⁷ By this stage they were aiming to work exclusively to respond to leads provided by senior figures and officials such as Lord Bethell and Lord Feldman. Emails between Efficio consulting and the NHS set out their view that all offers needed to use the survey unless they were from VIPs in which case they could be re-directed to the Baringa consultant. It was noted that at this stage the team responding to offers coming through the survey route had been expanded, so that it was thought that offers that had been prioritised (namely high volume and readily available offers) could be

¹⁶⁴ CG/174 - INQ000498224; CG/175 - INQ000498222; CG/176 - INQ000498223

¹⁶⁵ CG/177 - INQ000498337

¹⁶⁶ CG/178 - INQ000498238; CG/179 - INQ000498240

¹⁶⁷ CG/180 - INQ000498236

responded to swiftly.¹⁶⁸ As stated in paragraph 3.81 above other 'Opportunities' teams had been formed in parallel.

- 3.85. Work instructions were prepared for all 'Opportunities' team leaders and members, including those working on 'VIP' opportunities.¹⁶⁹ The instructions were not materially different for 'VIP' opportunities, except that caseworkers were expected to call within 24 hours of initial contact¹⁷⁰ and be prepared to provide feedback on progress to those that had referred the opportunity¹⁷¹. By 31 March 2020, around 70 offers had been received by the new team, of which 5 had been rejected or passed to other (non-PPE) teams. To add to the workload, referrers often asked for feedback on what had happened to their referrals. As above (see 3.83) there was a general anxiety (fed by media pressure) that offers were not being addressed in a timely fashion and that supplies were thus being lost to other buyers (outside the UK). Some of this anxiety was fed by accounts from potential suppliers of disappearing stocks and international competition.¹⁷²
- 3.86. It was decided to augment the High Priority and VIP Assessment team and bring in some more senior leadership. Max Cairnduff, an experienced member of the Complex Transactions Team and an SCS1 joined the team as its new leader on 1 April 2020.¹⁷³ Max established a dedicated email address to which Ministers, senior officials and others could direct opportunities from people who had contacted them wishing to supply PPE.
- 3.87. Max received a welcome email from the previous team leader including work instructions and a process map for the newly established closing team.¹⁷⁴ The Baringa consultant explained in this covering email that the process map "details the standard process... the VIP route follows the same process, it just differs in so far as I get passed supplier offers to follow up on via the following main routes...".
- 3.88. I am aware that in other legal contexts (such as judicial reviews), the term "senior referrer" has been used in statements and/or legal submissions. I have been asked whether some referrers within the HPL lane were treated as "senior referrers". I understand that this term was not used widely during the period of the HPL's operation; for example there is only one reference to a 'senior referrer' in the HPL mailbox itself. I

¹⁶⁸ CG/181 - INQ000533248

¹⁶⁹ CG/182 - INQ000496700

¹⁷⁰ CG/183 - INQ000498237

¹⁷¹ CG/184 - INQ000498235

¹⁷² CG/185 - **INQ000533274**

¹⁷³ CG/186 - INQ000498242

¹⁷⁴ CG/187 - INQ000498244; CG/188 - **INQ000498245**; CG/189 - INQ000496704

am not aware of any evidence that any specific class of referrers were treated as “senior referrers” at the time and given preferential treatment as a result.

- 3.89. The HPL team was also responsible for managing donations.
- 3.90. On 6 April 2020, an email clarifying the routes for offers was sent to ministerial private offices in DHSC and the Cabinet Office, and to senior commercial leaders in both Departments.¹⁷⁵ These recipients were all regularly receiving offers of PPE (and other health goods) and forwarding them to the PPE Buy Cell. Recipients were asked to direct what looked like “credible offers of high volumes of critical kit” to the webform, unless they were a personal recommendation from or contact of a minister or senior official, in which case they were to be directed to the new mailbox (covid-ppe-priority-appraisals@cabinetoffice.gov.uk). The email also gave instructions on where to forward offers for ventilators or testing supplies. The people/bodies who were provided with the mailbox address are listed in the first corporate witness statement at paragraph 4.398. Other parties contacted the mailbox who may have received the mailbox address indirectly (i.e. not from the PPE Buy Cell).
- 3.91. As can be inferred from the above, there were various impetuses which shaped the formation of the HPL. One factor was the disruption that such referrals were causing to the wider system. Another was that offers made to the HPL (including through links such as Lord Feldman or Lord Bethell) were generally expected to be credible, larger offers. Individuals who were involved in the HPL will be able to speak themselves to which of these factors were of greater importance for them in the way that the HPL operated.
- 3.92. As stated in paragraph 4.359 of the Cabinet Office’s first corporate statement to Module 5, the High Priority Lane was one of several teams (“Opportunities Teams”) dealing in parallel with opportunities coming to the PPE Buy Cell. Apart from the point of entry, and the speed of processing at the initial contact stage, the processing of these opportunities was identical to that undertaken by other Opportunities teams. As discussed in paragraph 3.85 above, work instructions were common to all Opportunities teams, including the HPL team, except that these instructions noted that, in addition to dealing with potential vendors, HPL team members were frequently asked for feedback on the progress of specific opportunities.
- 3.93. Records of opportunities were initially kept on spreadsheets and in the private storage of individual caseworkers until around 13 April 2020 when the HPL was the last

¹⁷⁵ CG/190 - **INQ000498249**

Opportunities team to transition to Mendix (the workflow and database system that was built over the weekend of 4–5 April and underpinned the buying operations of the PPE Buy Cell). Data regarding current and historic caseload was uploaded to Mendix from the spreadsheets that had been in use up to then. Around 2200 individual case records exist on Mendix which mention approximately 420 different potential suppliers that were processed through the HPL. Other offers are recorded including donations from overseas government entities. Because of the challenging nature of record keeping in the early days of the PPE Buy Cell, it is possible that other opportunities and suppliers were processed and that data was not transferred to Mendix.

- 3.94. A list of the approximately 420 companies and individuals who made offers that were processed by the HPL is exhibited.¹⁷⁶ As stated to the NAO in 2020, Cabinet Office has been able to ascertain details of the referrers for the majority of these companies, although there is some uncertainty regarding some attributions. The supplier name, where known, the referrer and the ultimate decision (contract or no contract) is recorded in the list.
- 3.95. Of these approximately 420 potential suppliers, 55 secured contracts. The offers made by these companies had been scrutinised using the full PPE Buy Cell procurement process as set out in paragraph 4.366 in the first Cabinet Office statement for Module 5. Details of 51 contractors who secured contracts through the HPL together with the name of their referrer were published on gov.uk as described in paragraph 4.418 of the Cabinet Office's first corporate statement to Module 5. An additional, 52nd supplier was added to this list following research work undertaken in preparation for this Inquiry.¹⁷⁷ Of these 52 companies, conflicts of interest were identified for 2 (one identified by the Closing Team and the other by the team managing the logistics contract for that supplier) and mitigated as described in paragraph 4.468 of the first Cabinet Office corporate statement to Module 5. Three further companies were also awarded contracts, although it was later identified that these were not referred by Ministers, MPs or officials, but were 'routine' casework undertaken by members of the HPL team.
- 3.96. In the first Cabinet Office corporate statement to Module 5, a list of 815 donations are exhibited which were recorded on Mendix. A list of companies, individuals and other organisations that donated PPE to the UK, some of which were processed via the High Priority Lane, is exhibited.¹⁷⁸

¹⁷⁶ CG/191 - INQ000533265

¹⁷⁷ CG/192 - INQ000498341

¹⁷⁸ CG/193 - INQ000498369

Statistics on the HPL contracts

- 3.97. According to DHSC figures, by 10 August 2020 362 purchase orders and equivalents for PPE had been raised in connection with the work of the PPE Buy Cell (including the UK 'Make' activity.)¹⁷⁹ Further contracts were awarded after this date. On 10 June 2022 the PAC, commenting on the DHSC 2020-21 report and accounts, said that 364 such contracts had been awarded. Some contracts were cancelled by DHSC after award. The Inquiry should refer to DHSC for an authoritative view of how many PPE contracts were placed.
- 3.98. As stated in the first Cabinet Office corporate statement to Module 5 at Paragraph 4.420, the total spend on contracts for PPE awarded through the High Priority Lane was estimated at £3.7Bn, based on the value of Purchase Orders at 10 August 2020. Some of these contracts were later varied or cancelled, and final figures should be sought from DHSC.
- 3.99. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.490, the total spend on contracts for PPE awarded through the PPE Buy Cell excluding offers that were processed by the 'Make' cell was estimated to be £7.2Bn. This implies that the spend on contracts for PPE excluding 'Make' (UK Manufacturers) and the HPL was £3.5Bn based on the value of Purchase Orders at 10 August 2020. As some of these contracts were later varied or cancelled, final figures should be sought from DHSC.
- 3.100. In the first Cabinet Office corporate statement to Module 5 at paragraph 4.492 an estimate is provided that almost 90% of companies that made offers to the HPL were unsuccessful in obtaining contracts. To give context to this estimate, while the Cabinet Office has records of approximately 420 HPL cases on Mendix, many of the approaches made to the HPL were either not processed at all or were processed by other teams, as stated at paragraph 4.406 of the first Cabinet Office corporate statement for Module 5. Any estimate of the percentage of contractors who made offers through the PPE Buy Cell that secured contracts should be treated with caution, as while 15,624 supplier records exist on Mendix, these records have not been deduplicated, Mendix has records created for training purposes and the total does not include offers made that were not uploaded to Mendix. Estimates produced by the DE&S team at the end of their engagement on 26 June 2020 suggest that 1% of all *offers* resulted in contracts being awarded by DHSC.¹⁸⁰

¹⁷⁹ CG/194 - INQ000513338

¹⁸⁰ CG/195 - INQ000498340

- 3.101. As DHSC was responsible for the subsequent contract management of the PPE contracts, the Cabinet Office does not hold data on terminations or litigation of these contracts.

Interaction with referrers

- 3.102. All three procurement streams referred to in both Corporate statements (Ventilators, PPE and tests) were carried out in circumstances of extreme urgency and in the glare of public scrutiny. There is evidence that Ministers were concerned that the PPE Buy Cell was slow to respond and bureaucratic, in part because of a series of critical press and broadcast stories reporting that potential suppliers had not heard back. Ministers and senior officials were keen to maintain the credibility of the procurement programme in the face of these stories. This was not just a matter of government's reputation for competence; a loss of confidence in the government's ability to supply PPE would be highly damaging for the morale of health and social care workers, and there was a concern that some bodies were creating local stockpiles of PPE against the event that the centrally led procurement programme was unable to deliver.
- 3.103. In some instances individual case handlers were subjected to pressure from prospective suppliers who had made offers through the HPL to progress their offers. Similar pressure was applied by prospective suppliers who had made offers outside the HPL. However, prospective HPL suppliers sometimes made reference to the Ministers and MPs whom they had first approached, seeking to pray that connection in aid in support of more speedy consideration of the relevant offer. It would not be possible to determine whether any such communication resulted in any offers being considered more quickly but in any event, all offers remained subject to the same consideration by the technical assurance team, and the closing team would only offer contracts at an acceptable price and with acceptable terms.
- 3.104. As stated in the Cabinet Office's first corporate statement to Module 5 at paragraph 4.392, ministers following up on matters (usually the private offices of concerned ministers), both during and outside the pandemic, understandably expected a tailored response rather than an automated message saying 'we will reply in due course'.
- 3.105. That is because, given the urgency of the pandemic and media coverage at the time which suggested that the PPE and ventilator procurement was failing to pick up and process good offers of products, there was even greater political pressure on responsible politicians and senior officials to ensure that leads which they had been forwarded and then passed on were not forgotten. It would have caused more

disruption to caseworkers if there was no system for logging such cases and enabling a process for such feedback to be given.

- 3.106. As discussed in the Cabinet Office's first corporate statement to Module 5 at paragraph 4.408, the Cabinet Office understands that all offers received by the Technical Assurance Team were processed in the same way, regardless of whether they originated from the HPL or elsewhere. All offers needed to pass the Technical Assurance stage (as well as the Due Diligence and Closing stages) and the Technical Assurance team did not prioritise offers which had come from the HPL over non-HPL offers. The specific point of contact within the Technical Assurance Team for HPL caseworkers was to facilitate tracking and feedback of HPL cases, not to 'ringfence' resources or confer priority.
- 3.107. Caseworkers in non-HPL opportunities teams could also contact the Technical Assurance team for information on progress, either by emailing the team leader or the dedicated mailbox (DESEngSfty-QSEPCOVID19@mod.gov.uk).
- 3.108. Almost all "UK Buy" contracts for PPE were awarded to intermediaries as opposed to directly to manufacturers. Some "China Buy" contracts were awarded either directly to factories or to State Owned Enterprises (SOEs) or other Chinese companies that were the parent of the manufacturing company. In some cases a "UK Buy" deal was facilitated by an agent, and the contract was placed directly with the Chinese manufacturing company (one example would be Weihai Textile Group). All "UK Make" contracts were with UK-based manufacturers, and at least one other contract (The Paper Drinking Straw Company) was placed directly with a UK manufacturer of visors. The "China Buy" and "UK Make" teams were formed before Cabinet Office involvement in the PPE Buy Cell, and consequently Cabinet Office holds no meeting minutes or other information regarding the formation of these teams. The Cabinet Office did not provide guidance to Deloitte in connection with assessing the potential of UK manufacturers for domestic production of PPE. The Deloitte team was retained by and under the direction of DHSC staff. The list of manufacturers ('UK Make') ultimately identified was published by DHSC on 17 November 2021.¹⁸¹
- 3.109. A spreadsheet of purchase orders and purchase order equivalents (Foreign Currency payments) produced by DHSC on 10 August 2020 is exhibited.¹⁸² This gives the name of each contractor, and the type of PPE that was supplied in the contract (gloves,

¹⁸¹ CG/196 - INQ000533263

¹⁸² CG/194 - INQ000513338

aprons, masks, etc). It also contains the value of each contract at the time of issuance of the purchase order.

- 3.110. A spreadsheet showing approximately 420 opportunities where the Mendix case file records that the potential supplier had been referred through the HPL, and gives the name of the referrer where known is also exhibited.¹⁸³ Five cases concern overseas governments or government bodies, and have been excluded from this analysis. 305 referrers are identified. While other referrers were tentatively identified in research carried out in 2021, the Cabinet Office no longer has a record of what source was relied upon, and have thus not included these names. Other referrers are listed as “Type II initiative” as the companies were added to the HPL as part of an urgent drive to find Type II or Type IIR masks already in the UK, initiated by Emily Lawson on 30 April 2020.¹⁸⁴ In 115 of the offers on the spreadsheet the referrers are MPs or members of the House of Lords or their offices, of which 24 were from Matt Hancock MP, and 38 from Lords Agnew, Feldman, Bethell and Deighton (each of whom were particularly connected to PPE procurement), so that around half of the referrals from MPs or members of the House of Lords which have been identified came from 5 people (or their offices), all of whom had clear roles in relation to PPE. 53 offers were referred by other MPs or Lords or their offices. On the other hand, there were 190 identified referrers who were not MPs or Lords, of which 68 are stated in the spreadsheet to have come from official referrers from organisations related to healthcare (NHS, DHSC, SCCL, PHE). A further 40 are stated to have come from officials in FCO/JACT¹⁸⁵/DIT/DFID or GSSEP¹⁸⁶ (all from an overseas network of some kind), and 5 from the Type II initiative; 41 came from other officials, often within the Cabinet Office (including 7 listed as coming through shared Cabinet Office mailboxes); 36 are named as coming from referrers which do not fit into the above categories; 110 do not have a source of referrer. For the cases where a referrer **has** been identified, the large majority came from Matt Hancock MP or one of the four Lords identified above who had a role in PPE procurement; officials involved in the healthcare response; officials involved in overseas procurement work, or other officials.

Steps taken to avoid conflicts of interest, favouritism and/or corruption

- 3.111. The Inquiry has asked what steps were taken to avoid certain risks in the processing of

¹⁸³ CG/197 - INQ000533269

¹⁸⁴ CG/198 - INQ000498280

¹⁸⁵ Joint Action Communication Team, a taskforce of DIT and FCO officials sourcing PPE leads

¹⁸⁶ Global Strategic Sourcing & Engagement Project, a team in DIT tasked with obtaining medical supplies

HPL opportunities. As stated in the first Cabinet Office corporate statement to Module 5 (paragraph 4.408), save for the point of entry and the speed of processing at the initial contact stage, HPL opportunities were processed in exactly the same way as all other opportunities. The same information was required from the vendors in order to establish whether the offer complied with technical requirements, and this information was passed to the completely separate and independent Technical Assurance team for validation. Contracts and price were negotiated by a third team, the Closing Team, which again was independent of the HPL. Finally the details of the proposed deal were passed to DHSC's own Finance and Commercial teams who made an independent recommendation to the Accounting Officer, a DHSC official. This separation of powers, with teams from different Departments and with different reporting lines would make it very difficult for any individual with an interest or other corrupt intent to 'force' an unsuitable deal through to contract.

GIAA Report

- 3.112. The ILT has asked questions about the findings of the 2 GIAA audits of 12 PPE contracts (6 in each report). These findings are contained in reports dated 1 October 2020 and 16 Feb 2021 which were referred to in paragraph 6.13–6.23 of the Cabinet Office's first corporate statement to Module 5.¹⁸⁷ The second report states:

3.112.1. "From our review, we have not identified to date evidence to suggest that the contracts reviewed within our sample, have materially deviated from documented processes and controls."

- 3.113. GIAA thus did not find material deviations from the defined processes in the 12 contracts that it examined in detail. To make a broader statement about other contracts it would be necessary to repeat this audit work for those contracts. We understand that this audit work took about 8 weeks for each of two batches of 6 contracts.
- 3.114. One GIAA finding relates to the completeness of due diligence checks, where GIAA did not find evidence that such checks were performed on all suppliers who were awarded contracts. The performance of these checks is discussed in paragraphs 3.143 onwards below. Of the 197 suppliers listed on gov.uk,¹⁸⁸ the Cabinet Office understands that some form of financial due diligence check was performed for all but 10. This includes 2 suppliers for which the Cabinet Office does not hold a case record (suggesting that the PPE Buy Cell was not involved in the buying process, for example

¹⁸⁷ CG/199 - INQ000501951

¹⁸⁸ CG/200 - INQ000498353

because the product type was not bought by the Cell).

- 3.115. For 26 suppliers, records show that Due Diligence was performed but although the reviewers recommended that the supplier was rejected because of the counterparty risk, nevertheless these transactions proceeded to contract. This would be unusual in a competitive situation if similar offers were available from suppliers presenting less counterparty risk, but in the pandemic, offers of technically compliant stock (i.e. meeting documented quality standards) were particularly attractive, as the alternative might have been going without the PPE.
- 3.116. In some cases this residual counterparty risk was flagged to the AO (usually in the 'Delegated Funding Approval Form' which was in the closing pack). In one case the deal was endorsed by the Clearance Board after considering the counterparty risk, and for another deal, DHSC agreed to proceed in advance of receiving Due Diligence information from the FCO. In other cases the risk was mitigated by either no or a reduced upfront payment. Several of these cases are for relatively small (<£1m) contracts.
- 3.117. There are a few other cases where there is no record of financial Due Diligence taking place and there is a possibility that a process error occurred. Mike Beard, the leader of the Closing Team emailed the Due Diligence team leader explaining that when the closing team started work at the very end of March 2020¹⁸⁹, he was briefed that Due Diligence would be completed before cases were forwarded to his team. The Due Diligence team leader accepted that in some cases the correct flag in the casework system was only set some time after the case had been processed.
- 3.118. As shown on the spreadsheet exhibited¹⁹⁰ the value of contracts for which Due Diligence information has not to date been identified, or where DHSC proceeded to contract although counterparty risk was flagged, amounts to £315m, which is 4% of the total £7.2Bn spent through the 'UK Buy' streams; and for many of these contracts mitigations for these counterparty risks were applied. As an example, in one case management accounts were obtained for the current financial year together with a business forecast.¹⁹¹ The nature of the financial due diligence checks applied is discussed in paragraph 3.170.
- 3.119. DHSC holds information on contract performance, including on any contracts let with

¹⁸⁹ CG/201 - INQ000513697

¹⁹⁰ CG/202 - INQ000562377

¹⁹¹ CG/203 - INQ000513331

the suppliers listed in the document exhibited.¹⁹²

Conflicts of Interest

- 3.120. Paragraphs 3.52–3.103 of the Cabinet Office's first corporate statement to Module 5 addressed the principles, regulations and policies that governed the treatment of conflicts of interest in the procurement of tests, PPE and ventilators during the COVID-19 pandemic. These included the duties of Ministers and civil servants to record and declare relevant interests, and the obligation in Regulation 24(1) of the 2015 Regulations to take appropriate measures to effectively prevent, identify and mitigate conflicts of interest so as to avoid any distortion of competition and to ensure equal treatment of suppliers. Public bodies are also under a common law duty/ public law principle to act in a procedurally fair manner which includes acting without bias or apparent bias.
- 3.121. The definition of conflicts of interest for these purposes is set out in Regulation 24(2) of the 2015 Regulations: "The concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure"
- 3.122. Regulation 24(3) goes on to define the "relevant staff members" as those "involved in the conduct of the procurement procedure or [who] may influence the outcome of that procedure." See paragraph 3.73 of the Cabinet Office's first corporate statement to Module 5.
- 3.123. As the contracting authority for purchases via the PPE Buy Cell, the legal duties in Regulation 24 fell on DHSC.
- 3.124. As stated at paragraphs 3.38 and 3.80 of the Cabinet Office's first corporate statement to Module 5, the Cabinet Office did not have a regulatory or 'policing' role with regard to the operation by other departments, such as DHSC, of their conflict of interest policies and procedures.
- 3.125. The Cabinet Office is responsible for ensuring that its own staff (many of whom were engaged with DHSC on critical purchasing tasks as described in paragraph 1.17 in the Cabinet Office's first corporate statement to Module 5) comply with conflict of interest policies and procedures.

¹⁹² CG/202 - INQ000562377

- 3.126. Where a conflict of interest was identified, the Cabinet Office would have expected that DHSC would adhere to its statutory duties and policies, following the guidance in PPN 01/19.¹⁹³ For example, we would expect mitigation actions to address the conflict of interest to be taken and documented in a report required to be kept under Regulation 84 of the 2015 Regulations. Mitigation actions could include removal of the conflicted personnel from the bidder's team or the procurement team, specific information management processes ('ethical walls') or, in the event that potential distortion of competition or unequal treatment could not be effectively prevented or mitigated, exclusion of a supplier from a procurement process. As described in paragraph 4.468 of the Cabinet Office's first corporate statement to Module 5, two potential conflicts of interest were identified and mitigation actions were documented as part of the proceedings of the PPE Clearance Board.¹⁹⁴
- 3.127. The Cabinet Office is not aware of specific instances where a conflict of interest was identified and appropriate measures were considered necessary but not taken before a contract was awarded, and similarly I am not aware of any situation where a member of the Complex Transactions Team endorsed or supported such a deviation from normal practice.

Politically Exposed Persons

- 3.128. The Inquiry has asked about the rules against pressure arising from "chasers" sent by Politically Exposed Persons. By way of preliminary observations:
- 3.128.1. The concept of Politically Exposed Persons is not specifically addressed or referred to in procurement law. Regulation 24 on conflicts of interest in the Public Contracts Regulations 2015 applies to "relevant staff members".
- 3.128.2. A minister sending an email to ask whether an offer they have been made aware of is being dealt with is to be expected and would not be understood as pressurising a civil servant to accept that offer.
- 3.129. The specific rules which would guard against "chasers" leading to such pressure are as follows.
- 3.130. Firstly, as a matter of procurement law applicable at the time, in any procurement, bidders had to be treated equally and in a transparent manner (Public Contracts

¹⁹³ CG/204 - INQ000101269

¹⁹⁴ CG/205 - INQ000522285; CG/206 - INQ000513348; CG/207 - INQ000513329

Regulations 2015, Regulation 18) and appropriate measures had to be taken to effectively prevent, identify and remedy any conflicts of interest in the conduct of the procurement (Regulation 31).

3.131. Secondly, as stated at paragraph 3.66.2 of the Cabinet Office's first corporate statement to Module 5, one of the key values in the Civil Service Code is 'honesty'. The Code states that as part of the 'honesty' value "You must not ... be influenced by improper pressures from others or the prospect of personal gain".

3.132. Thirdly, the Ministerial Code (which was updated on 6 November 2024), the Code of Conduct for the House of Lords and the Code of Conduct for Members of the House of Commons all require Ministers, Members of the House of Lords and Members of Parliament respectively to adhere to the Seven Principles of Public Life which include:

3.132.1. **Selflessness:** Holders of public office should act solely in terms of the public interest.

3.132.2. **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3.132.3. **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

3.133. Paragraph 3.1 of the Ministerial Code further states the following general principle on Ministers' Private Interests:

3.133.1. "Ministers are appointed to serve the public and must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise. This is an ongoing duty that applies throughout a minister's period in office."

Modern Slavery

3.134. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.442 modern slavery concerns were identified in some transactions. The Cabinet

Office produced specific guidance for management of these risks in the context of Covid-19 buying.¹⁹⁵ The standard DHSC contract for goods included clauses (7.1.21) that required the supplier to warrant that it: “shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains”.¹⁹⁶ This contractual protection was strengthened for use in situations where the risk was judged to be higher.¹⁹⁷

- 3.135. In addition the Clearance Board routinely asked if there were concerns about modern slavery practices associated with manufacturers (for example surfaced through Due Diligence) and if so, how these concerns were being allayed. Minutes of discussions on 13, 15, 20 and 28 May 2020 include discussion of modern slavery issues as do discussions on 3, 4 and 18 June 2020.¹⁹⁸ Examples of mitigation actions include provision of a Modern Slavery Statement,¹⁹⁹ completion of a self-assessment against the NHS Supply Chain Code of Conduct by the supplier, a risk assessment performed by DIT,²⁰⁰ and supplier or factory inspection.²⁰¹

Pricing Analyses of PPE

- 3.136. The pricing analysis performed by the GIAA in their 16 February 2021 report suggested some prices can be considered ‘outliers’ and suggests that the reasons for these prices being set be further considered.²⁰² The report mentions gloves supplied by Meller Designs, gowns by Summit Medical, coveralls by Guardian Surgical and safety goggles by Hotel Logistics.
- 3.137. Records state that the gloves supplied by Meller Designs were rubber sterile ‘surgical gloves’ rather than the normally purchased nitrile ‘examination gloves’, which are in normal times as little as 10% of the price of surgical gloves. These are a higher specification and were purchased in order to be used, for example, in an operating theatre environment, where the examination gloves would not be suitable. For price comparison, a quantity of these nitrile ‘examination gloves’ were purchased from Meller Designs at the same time as the rubber surgical gloves and at a lower price.²⁰³

¹⁹⁵ CG/208 - INQ000498277

¹⁹⁶ CG/209 - INQ000498253

¹⁹⁷ CG/210 - INQ000498344

¹⁹⁸ CG/205 - **INQ00052285**

¹⁹⁹ CG/211 - INQ000498291

²⁰⁰ CG/212 - INQ000498345

²⁰¹ CG/213 - INQ000498343

²⁰² CG/199 - INQ000501951

²⁰³ CG/214 - INQ000513334

The gowns purchased from Summit Medical were high specification ‘Vivi’ gowns intended for the treatment of highly infectious diseases (such as Ebola Virus). These gowns were immediately available in the UK and purchased, in relatively small quantities, directly from the manufacturer. The ‘Vivi’ gowns were specially designed for use with Summit Medical’s high-specification protective helmet, which provides full-face ventilated protection for the wearer. The GIAA report quotes a price for “goggles” purchased from Hotel Logistics although the products are labelled in the 10 August 2020 list of purchase orders as “eye protectors”. Goggles from Hotel Logistics are also on the same purchase order at a lower price, nearer to the achieved average price for goggles.²⁰⁴ Cabinet Office does not hold a record relating to the purchase of coveralls from Guardian Surgical as these were purchased by SCCL – however note that coveralls generally attracted a higher price than gowns (in the range £20–£30 each) as they required more material and were more complex to make than gowns.

- 3.138. The reference in the GIAA report to high prices paid after the peak of the Pandemic appears to relate to a purchase from Bluebox Medical of safety goggles (purchased by SCCL) and facemasks purchased from Bolle Brands (a contract put in place by UK Make). The Cabinet Office does not hold records regarding these transactions.
- 3.139. In summary, there are reasons for the higher prices of the ‘outliers’ in the GIAA report, which reflect the difficulty of performing a price analysis by category when that category includes a wide range of different products with different specifications and price points.
- 3.140. The detailed price analysis performed by GIAA, as documented in pages [30–46] of their second report,²⁰⁵ was carried out on the following 10 categories of PPE: Face Shields, Gowns, Coveralls, Body Bags, FFP3 respirators, FFP2 respirators, IIR surgical masks, Gloves, Aprons and Safety Goggles. The pricing analysis compared the average price per unit for contracts for each category under the following 3 routes: (1) initially processed by the HPL, (2) originally processed by non-HPL Opportunities Teams, and (3) processed by SCCL.
- 3.141. Of these categories, the GIAA considered that the HPL offered the cheapest average price per unit of the 3 routes for 4 categories; Coveralls, FFP3 respirators, IIR masks and Safety Goggles. The HPL was also cheaper than the non-HPL (but more than the SCCL) for 2 more categories: Gowns and Face Shields. Finally, the HPL was cheaper than the SCCL, but more than the non-HPL, for a seventh category: FFP2 respirators.

²⁰⁴ CG/215 - INQ000497245

²⁰⁵ CG/199 - INQ000501951

In summary, on the GIAA's detailed analysis, the HPL only provided the most expensive average price per unit for 3 categories; Gloves, Aprons and Body Bags.

Total purchases by the HPL and other lanes

- 3.142. I am aware that in the first Cabinet Office corporate statement to Module 5 figures were given for the total spend by the HPL, China Buy and SCCL at paragraphs 4.345, 4.388, 4.420, 4.490. Although DHSC will have final figures, on this assessment the PPE Buy Cell total spend was £7.2 billion, of which the HPL was £3.7 billion and non-HPL £2.6 billion, and China Buy £0.9 billion. The SCCL spend was understood to be £5.1 billion. The HPL spend has been analysed by supplier and I note that of the suppliers the top supplier (Unispace) received by itself almost 20% of the total HPL spend. The top five suppliers (Unispace, Pestfix, Medicom Healthcare, Uniserve and P14 Medical Ltd) received over 50% of HPL spend and the top ten suppliers (the five above plus Worldlink, Ayanda, PPE Medpro, Meller Design Ltd and Cargo Services) received approximately 80% of total spend. The amount spent on the HPL was therefore largely the result of big contracts with a few suppliers. It was an aim of the Buy Cell to have fewer, larger contracts because that lessened the requirement to negotiate with and conduct due diligence on numerous small suppliers, and gave confidence for long term supply. A similar pattern existed on the non-HPL route. The Buy Cell was also seeking such contracts through China Buy and SCCL, but particularly in relation to the former there were fewer such contracts available, as the FCO had concentrated on contracts with a small number of Chinese State Owned Enterprises (SOEs), and there were questions about whether these entities could continue to do business with overseas governments. The fact that large sums were paid via the HPL to a small number of suppliers reflects the fact that this strategy of concentration was adopted by the Buy Cell, and so influenced the pattern of expenditure between the lanes.
- 3.143. Of the top four products purchased by the HPL in terms of total spend, three (gowns, gloves and FFP2/3 masks) were the subject of 'sprints' where the team was tasked to obtain these goods as a priority from any supplier, though the highest spend was on II/IIR masks which were a priority throughout. The three products above which were the subject of sprints were also products where higher prices were paid by the HPL than China Buy. It might be expected that higher prices would be paid by procurers during a sprint, since the sprints would only take place in circumstances where there was a particular need for a product and a shortage of offers, which would drive the prices up.

Process flows into and from the HPL

- 3.144. As the first Cabinet Office corporate statement to Module 5 describes at paragraph 4.406, “[s]ome offers received by the HPL were diverted to the general “open source” portal, where appropriate”. An example would be if the product was not actively being sourced by the PPE Buy Cell at that time, as shown in the email exhibited.²⁰⁶
- 3.145. The PPE Buy Cell prioritised the review of the offers it received based on clinical demand and removing offers which were obviously not credible. The clinical demand for products (and thus the relative urgency of need) was communicated to the PPE Buy Cell daily by Emily Lawson or her delegate at an 8.30am Leaders meeting. This information was cascaded to the Opportunities Teams and the HPL teams at the daily 9.30am standup meeting which followed. The credibility of the proposition was ascertained at this early stage in the process by the completeness and appearance of the technical documents. Since it was difficult to obtain samples from overseas suppliers (and would have added considerable delay to the ordering process), this was the only practical way of assessing the technical suitability of product before shipment. On arrival at the UK distribution centre, incoming product was quarantined until it had been physically inspected (I believe by MHRA or HSE inspectors). This reduced the risk of putting substandard product into the Health and Social Care supply chain.
- 3.146. I note that it was said in the Cabinet Office's first corporate witness statement at paragraph 4.403 “the small offer pool/backlog and the dedicated resources meant the HPL team was generally able to review offers and progress them to Technical Assurance (if suitable) more quickly”. That was generally true when there were fewer incoming offers to process and the HPL team was staffed with more experienced caseworkers, though the speed of progression of each case depended on the workload and resources of each team at the time, as well as the complexity of each offer, and whilst the non-HPL team had more offers, many of these could be rapidly deemed low priority and disregarded because they did not offer sufficient quantities of acceptable, priority product. Offers were still only considered suitable for progression if and only if they had complete technical documentation and the product was in demand. I am aware that Cabinet Office officials have carried out a comparison of the speed with which HPL and non-HPL offers were processed through the system to receive purchase orders. It is possible to identify the entry into the system of non-HPL offers as the date at which the webform was filled out. That is not possible for all HPL offers since the webform was not always filled out, with emails coming directly to the

²⁰⁶ CG/216 - INQ000498290

team from the referrer. The Cabinet Office has used, as comparators to the non-HPL cases, HPL cases where it can be seen from emails when the first introduction of the supplier was. Of the 61 non-HPL cases analysed (out of approximately 250 contracts), there was an average of 22 days between the webform being filled out and the purchase order being given. Of the 36 HPL cases (out of 115 contracts), there was an average of 27 days between first email contact and first purchase order. Although these are small cohort sizes, the analysis suggests that non-HPL cases of value (i.e. those which were to progress to a contract) went on average through the system at a comparable speed to HPL cases and possibly faster. By way of an update to this statement following its original filing with the Inquiry, I understand that as part of preparation for the Module 5 hearings, there has been further research into these figures and that alternative ways of assessing the time taken to progress to contract on each route are being calculated by Dr Chris Hall.

- 3.147. There were no set criteria as to who was entitled to make a referral to the High Priority Lane. In practice anyone who knew the address could refer such an offer. Offers were screened before allocation to a caseworker and not all offers were pursued through the HPL (for example see paragraph 3.132 above on diversion to portal). As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.398, as the existence of the mailbox became better known, ministers and officials referred offers directly to the mailbox which, in their judgement, they considered credible and worth pursuing. This included some offers from large companies in the UK and overseas.
- 3.148. There were no instructions within or to the other teams within the PPE Buy Cell to prioritise HPL offers over others and give a different treatment through the journey; indeed there is evidence that the head of Technical Assurance explicitly rejected prioritising any offers on any basis other than clinical need.²⁰⁷ While emails to other team members (outside of the HPL) were often marked “VIP” or on occasion “VVIP” there was no instruction to recipients that this should result in faster treatment of these requests.
- 3.149. The existence of this dedicated mailbox was made known to the private offices of DHSC and Cabinet Office Ministers and senior officials in DHSC and the NHS (as described in the first Cabinet Office corporate statement to Module 5 at paragraph 4.398) in the email exhibited in paragraph 3.90 above. No guidance was issued as to when to refer and what to refer; the referrers only knew to direct PPE offers that were judged to be worth pursuing to the priority mailbox. The initial list of departments were

²⁰⁷ CG/217 - INQ000498255

chosen because of their involvement in a) health matters and b) public procurement, so they were the most obvious recipients of emails from third parties including MPs and external companies. When the team was established there was also a discussion regarding forwarding high volume offers directly to the HPL rather than through the portal.²⁰⁸ It appears that a number of such offers, with no apparent connection with senior referrers, were thus processed by the HPL.

- 3.150. The spreadsheet exhibited contains an analysis of messages received from 2 April 2020 when the mailbox was opened to 26 June 2020 when the team stopped work.²⁰⁹ There are later emails in the mailbox as it remained open (and is still open) resulting from continuing (unsolicited) offers and analysis work in support of e.g. NAO, GIAA, FOI and other queries. As stated above in paragraphs 3.93–3.96, subsequent investigation by GIAA of contracts let through the HPL found some shortcomings in record-keeping, but no evidence that the contracts examined within their sample “materially deviated from documented processes and controls”.
- 3.151. No formal assessment was made of the credibility of referrals made through the High Priority Lane as against approaches made through the online portal, but there is some evidence that suggests that offers received through HPL referrals were more likely to be viable than those received by completion of the completely open online form. As an example, perhaps 2,000 of the 26,000 offers made through the online form could not be processed as data was incomplete.
- 3.152. The exhibited documents set out criteria and checks that were applied at the time to each stage of an offer’s ‘journey’ through the system. The process map exhibited gives an overview of the total journey, dated 15 April 2020²¹⁰ and shows the way that work was conducted at the ‘mid-point’ of the PPE Buy Cell’s operation. In this view, offers for FFP2 or 3 respirators, type IIR masks and Eye protection were prioritised if quantities over 1 million were offered. Offers below this were not immediately rejected but received later attention. There was not a pricing limit at which offers were rejected as price was subject to negotiation, and the PPE Buy Cell did not negotiate price until it was ascertained that the goods met technical requirements.
- 3.153. In relation to gloves, masks, aprons and gowns, the primary means of selecting viable offers was, as stated above, meeting the published technical requirements. Due Diligence provided some insight into the strength of the counterparty. Volume

²⁰⁸ CG/218 - INQ000533249

²⁰⁹ CG/219 - INQ000533266

²¹⁰ CG/220 - INQ000498267

requirements for masks in mid-April 2020 were as set out in the previous paragraph, but at that time no volume requirements were set for gloves, aprons and gowns. Offers with shorter delivery timescales were favoured (meaning 4–6 weeks). Price was assessed against a running average for the category, as discussed in the first Cabinet Office corporate statement to Module 5 at paragraphs 4.453–4. All these criteria were dynamic and depended on the context, in particular how acute demand was for that particular category at the time, but this basic framework persisted through the life of the PPE Buy Cell. A working document constructed collectively by team leaders in May 2020 shows how practical experience of dealing with suppliers was translated into instructions for case workers.²¹¹

- 3.154. The MoD documents exhibited here show process maps for the Opportunities Team, Technical Assurance Team and Closing Team.²¹² These instructions were all updated during the life of the cell, but versions exhibited here are roughly contemporaneous with the end-to-end process map exhibited in paragraph 3.140 above. If a caseworker deviated from the ‘standard journey’ documented in these maps, they were expected to notify their team leader. Examples might include seeking approval to deal with weaker counterparties as discussed in paragraph 3.167 below. These exceptions are detailed in the spreadsheet exhibited.²¹³
- 3.155. All HPL offers went through a very similar journey to other offers processed by other Opportunities teams. When a full pack of technical documentation had been collected, offers were forwarded to the Technical Assurance team which would check that the product documentation was complete, that the product offered complied with the then-published specification (see the first Cabinet Office corporate statement, paragraph 4.422 onwards) and that the documents appeared to be genuine and from properly authorised institutions (see the first Cabinet Office corporate statement to Module 5, para 4.426). Due Diligence checks would either be performed by the Markets and Suppliers team in the Cabinet Office (see the first Cabinet Office corporate statement to Module 5, para 4.433) or by CAAS in the MoD, as described in paragraph 3.147 below. An apparent technically compliant offer would be passed to the Closing Team, which would negotiate price, delivery and terms with the supplier as described in the first Cabinet Office corporate statement to Module 5, para 4.444–4.460. All of these checks would be undertaken applying the same guidelines, policies and criteria as for all other offers processed by other Opportunities teams. If

²¹¹ CG/221 - INQ000498284

²¹² CG/222 - INQ000477249; CG/223 - INQ000498250

²¹³ CG/202 - INQ000562377

any of these checks were omitted, then this would have been recorded in the 'Closing Pack' forwarded to the Accounting Officer for approval. This 'Closing Pack' was scrutinised by the DHSC Procurement team and the DHSC Finance Team as described in the first Cabinet Office corporate statement to Module 5 at para 4.476. The DHSC Finance Team would write advice for the AO on whether the offer should be accepted (or not) and contract issued.

- 3.156. The spreadsheet exhibited is the result of a Power BI analysis of the Mendix database carried out in December 2020.²¹⁴ There are four worksheets in the spreadsheet. The first worksheet is an analysis of 19,288 offers to the PPE Buy Cell and recorded in Mendix. The worksheet breaks down the offers made by these suppliers by product type and by rejection reason. As the commentary on the worksheet notes, the sum totals of rows/columns will be less than the sum of numbers in individual rows/columns because the analysis removes multiple instances of the same submission.
- 3.157. The rejection reasons include the term "Do Not Proceed". Many cases were marked in this way for a variety of reasons including the product not being sought by the NHS, or the product no longer being in demand, or the supplier not responding to emails or phone calls. Another line records cases "Passed to other team". The other team might be the "Make" team for PPE manufacturing opportunities or other DHSC teams buying test materials or ventilators. All rejection reasons are summarised at the bottom of the worksheet.
- 3.158. The second worksheet analyses the offers of 14,145 suppliers in a similar way to the first worksheet. Here the analysis removes instances of the same supplier making multiple offers of the same product.
- 3.159. The third worksheet provides similar statistics but just for the case records marked 'VIP'. Mendix records marked 'VIP' include 'China Buy team' contacts (see paragraph 4.348 of first Cabinet Office corporate witness statement for Module 5) and include duplicates and test records, thus 484 suppliers are listed in this analysis. Of these 17 came through the 'China Buy' team and all received contracts, so they should not appear in the rejection reason statistics. The fourth worksheet repeats the analysis for cases not marked 'VIP' – i.e. all remaining cases.

Technical Specifications for PPE

- 3.160. The technical specifications for PPE used by the PPE Buy Cell were initially provided

²¹⁴ CG/225 - INQ000498342

by SCCL, and were the same specifications that had been used pre-pandemic to set up the framework agreements with wholesalers and others that were SCCL's route to market. Potential suppliers were asked to provide documentation that showed that the products they were offering complied with these specifications.²¹⁵ As stated in the Cabinet Office's first corporate statement to Module 5 at paragraph 4.355, the Cabinet Office understands that the whole of the PPE Buy Cell, including SCCL, bought PPE to the same, published specifications.

- 3.161. On 30 March 2020, a set of specifications for PPE was published on gov.uk. These specifications were published by the Cabinet Office and DHSC. In practice, the specifications had been drawn up jointly by DHSC and the public health bodies for each nation as described in paragraph 4.352 of the Cabinet Office's first corporate statement to Module 5. These documents were updated on several occasions during the relevant period. The two updates of most relevance to PPE Buy Cell took place on 6 April 2020 and 5 May 2020.
- 3.162. The initial DHSC specifications (released on 30 March 2020) were for gloves and other equipment including gowns.²¹⁶ The gloves specification included technical requirements for the gloves and specified that the pack should fit in a "standard glove box" for dispensing purposes. The specification also mandated compliance with ethical sourcing (including labour) standards. The specification for "other equipment" addressed gowns, surgical face masks, respirator masks and eye protection (PPE). These two specification documents share content with the SCCL specifications that they superseded.
- 3.163. The first update on 6 April 2020 added specifications for chlorine tablets and granules (for disinfectant), fit testing solutions (for respirators), hand wash, body bags, orange (clinical waste) bags and two specifications for aprons.²¹⁷
- 3.164. The major update on 5 May 2020 published a different kind of specification, which I am informed was intended for potential UK manufacture of products.²¹⁸ While the specifications listed in paragraph 3.151 remained in force, the new specifications replaced the 30 March documents that covered Gloves, Gowns, Surgical Face masks, respirator masks and Eye Protection. The specification suggested that the requirement for CE marking might be waived (for goods made in the UK, not imported goods and in

²¹⁵ Gloves specification: CG/226 - INQ000498221; Gowns, masks and eye protection specification - CG/227 - INQ000498230

²¹⁶ CG/228 - INQ000498356

²¹⁷ CG/229 - INQ000477159

²¹⁸ CG/230 - **INQ000477165** CG/231 - INQ000269668

line with an EU directive). For certain procurements the document stated that the requirement for over-the-head straps for certain respirator masks (FFP2 and FFP3 masks) was 'highly desirable', a requirement that was clarified in August 2020 when this requirement was made mandatory.²¹⁹ Guidance for applicants was published, which suggested that MHRA and HSE would consider conformance with equivalent standards and issue derogations directly to manufacturers.

- 3.165. All these specifications were described as "essential technical requirements" i.e.: "This guidance sets out the technical requirements based on what is 'minimally acceptable' for manufacturer in the context of Covid-19 threat whilst maintaining essential safety requirements".
- 3.166. As with much other government procurement activity, the published specification must be met or exceeded, but since overcompliance could in all likelihood add cost without adding extra protection, the specification represented the minimum level acceptable for purchase.
- 3.167. For PPE, the first Cabinet Office corporate statement to Module 5 at paragraph 4.354 explained that for some offers, derogations were sought from a 'Decision Committee' that brought together the relevant regulatory bodies under a DHSC (or NHS) Chair. A spreadsheet is exhibited (archived by the MoD Technical Assurance Team) that illustrates what kind of derogations were sought and whether or not they were granted.²²⁰ It is not known whether this list is a complete representation of derogation requests. Further information should be sought from DHSC.
- 3.168. The Inquiry has asked how contracts were awarded to suppliers that did not meet technical specifications, in spite of the hard work and professionalism of the Technical Assurance Team. Whilst any system with people working on unfamiliar material and under enormous pressure may make mistakes, as stated above at paragraph 3.152, some ambiguity existed in versions of the published technical specifications. In addition, some goods were delivered that did not meet the specifications that were presented to the Technical Assurance Team at the point that the offer was assessed. These goods were later rejected on arrival at the UK distribution centre. DHSC holds figures on the number and nature of these rejections.

Closing Team - negotiating Price and Terms

- 3.169. As described in the first Cabinet Office corporate statement to Module 5 at paragraph

²¹⁹ CG/232 - INQ000498370

²²⁰ CG/233 - INQ000513349

4.450, the Closing Team was tasked with negotiating price and terms for every offer (except those of the 'China Buy' team, which were negotiated with the support of staff in the Beijing embassy). The Closing team was led by MoD officials and initially exclusively staffed by Commercial professionals from MoD's Defence Equipment and Support organisation. This team held price discussions with every supplier (except the Chinese suppliers mentioned above) and attempted to negotiate the best combination of price, upfront payments and delivery arrangements for each deal. MoD's statistics suggest that of over 50,000 product offers made to the PPE Buy Cell, the Closing team addressed 554 (during the three months of deployment, April, May and June 2020).²²¹

Logistics

- 3.170. Apart from goods made in the UK (and generally purchased through the 'UK Make' stream) almost all the PPE purchased by the PPE Buy Cell had to be imported from overseas. This was at a time when international shipping was highly disrupted by the pandemic. Some contracts were let which, as well as the goods themselves, included delivery to DHSC's UK distribution centre, but increasingly it became more effective to use integrated shipping arrangements which were managed by DHSC's shipping desk and performed by its shipping agent, Uniserve. Contracts thus were let which allowed collection at the factory gate or transfer of goods to local shipping agents, often at an airport in the country of origin.

Rapid Response Team

- 3.171. As described in the first Cabinet Office corporate statement to Module 5 at paragraphs 4.471 onwards, the Rapid Response Team was a sub-team of the PPE Buy Cell. It operated from 24 April 2020 to 19 June 2020. It was a multi-skilled team with members from Opportunities teams, Technical assurance, Due Diligence (GCF Markets and Suppliers), the Closing team and DHSC Finance and Commercial. The objective, as stated in the first Cabinet Office corporate statement to Module 5, was to process a single deal for urgently needed product to completion in as short a time as possible (preferably a single day).
- 3.172. As stated in the Cabinet Office's first corporate statement for Module 5 at paragraph 4.473, the Rapid Response Team processed cases from both the general opportunities stream and the HPL. Of the 96 cases processed by the Rapid Response Team, just over 70% were originally HPL cases. This can partly be explained by an overlap of personnel between the HPL and the RRT. While the RRT team leader regularly called

²²¹ CG/234 - **INQ000498295**

for all other team leaders to provide suitable cases, those that met the criteria for quick processing (readily available information, engaged and motivated supplier) more often came from the HPL.²²²

3.173. The team was formed to deal with bottlenecks that occurred in the 'normal' process flow. The three that were most frequently encountered were (1) in the interaction between the Opportunities Team and the Technical Assurance team, (2) in performing due diligence and (3) in the Closing Team. By way of explanation:

3.173.1. If the Opportunities Team could not validate all documentation at the first attempt then there would often be a number of iterations where the Opportunities Team caseworker would attempt to obtain better documentation regarding the product from the potential supplier.

3.173.2. Some due diligence activity was carried out by subcontractors with a finite capacity and because we were dealing with counterparties new to government, some of which were overseas entities, relevant information was not always readily available. While the Markets and Suppliers team managing these subcontractors was expanded, the nature of the checks conducted meant that throughput remained capacity-limited.

3.173.3. The Closing Team had a number of skilled negotiators but each of them frequently had a full caseload.

3.174. The intention of the Rapid Response Team was to focus attention on a single case rather than picking the next case off the queue for each individual step in the process. As a consequence, the interactions between team members were quicker and easier and facilitated by a project manager with end to end responsibility for delivering (or if it failed checks, rejecting) the deal. The context of the deal (background of the supplier, need for goods and ultimate source of product) could be given once at an initial briefing rather than being handed from specialist team to specialist team. This was the principal process innovation during the very short time that the PPE Buy Cell was in existence.

3.175. The base level processes used by the members of the Rapid Response Team (RRT) were identical to those used by other workers in the PPE Buy Cell. The Opportunities Team member in the RRT obtained technical documentation for the offer in the same

²²² CG/235 - INQ000533267

way as was done for other opportunities; Due Diligence was performed as for other companies not processed by the RRT; Technical Assurance was performed in an identical way as for other offers and the Closing Team member in the RRT negotiated price, delivery and terms in the same way that they negotiated other offers.

- 3.176. The RRT process as a whole was more “effective” because there was less queuing and fewer handoffs were involved, thus deals were executed in two to three days rather than the up to 20 days that was sometimes seen outside of the RRT. As a result, there was less chance of the opportunity being lost because of a counteroffer from another (non UK) buyer, or a production slot being missed. The Rapid Response Team also had a remit to “fail fast” i.e. to drop deals that had the potential to get “stuck” because of unforeseen complications.

Due diligence

- 3.177. In the first Cabinet Office corporate statement to Module 5 paragraph 4.435 it was stated that “as far as the Cabinet Office is aware, all offers should have been subject to due diligence before any contract was awarded (with the nature/extent of the due diligence developing as time went on)”.
- 3.178. The purpose of undertaking due diligence investigations on potential suppliers was to understand whether they were suitable counterparties for the Government to deal with. The primary assessment was of economic and financial standing, which looked at whether the supplier had the financial resources to undertake a transaction of the nature and size that was proposed. Considerations included whether the supplier could fund the needed cash flow, and whether the Government could recover any expenditure (such as advance payments) in the event that a transaction failed (e.g, goods not delivered or of wrong quality). Turnover and net assets were indications of financial resources. Other risk factors could emerge through due diligence, such as the risk of fraud or other malpractices like poor labour practices.
- 3.179. Suitability of counterparty was determined on a risk basis. The volume and speed of transactions mean that investigations had to be quick, and as due diligence was rarely fully conclusive, some risk, as described below, was associated with many of the potential counterparties. Some of this risk could be mitigated by insisting on no or limited payment before delivery of the goods, or staging prepayment to match the flow of goods from the manufacturer. Since ‘standard’ due diligence checks usually rely on publicly available records, other suppliers were asked for more recent financial information that was not in the public domain, including management accounts and

evidence of access to funds. An example of relevant correspondence is exhibited.²²³

- 3.180. In addition, the risk appetite of the Accounting Officers was higher during this period than pre-pandemic. As explained at paragraph 3.43 in the section on buying targets, the PPE Buy Cell expected some transactions to fail (although in practice far fewer failed than were expected to). The risk of a counterparty or a transaction failing was, as set out in the first Cabinet Office corporate statement to Module 5 (paragraph 4.441) balanced against the risk of not having the goods and putting patients and health and social care workers at risk. Further discussion of the DHSC's risk appetite is contained in the department's annual report and accounts for 2020–21, paragraphs 557/8, 606, 636 and 679.²²⁴
- 3.181. The phrase “as far as the Cabinet Office is aware” (see paragraph 3.175 above) means that the Cabinet Office understands that the intention was to perform due diligence on all counterparties where it was the intention to award a contract, as stated in the process maps. However, as discussed in paragraphs 3.110–3.114 above, the Cabinet Office was not able to find records confirming that due diligence was done on all counterparties.
- 3.182. Due Diligence on UK counterparties was normally performed by either the Due Diligence (DD) team in the GCF Markets and Suppliers unit or by CAAS, an equivalent team in MoD which performs this function for MoD's own deals. A list of cases reviewed by CAAS up to 30 June 2020 is exhibited.²²⁵ The Closing Team was initially exclusively made up of staff from MOD'S DE&S Organisation, who had existing relationships with CAAS. The DD team engaged a consultancy called Contingent to perform investigations on UK Companies. Contingent populated an EXCEL spreadsheet template provided by the Cabinet Office. From April 2020 the DD team also arranged for another specialist consultancy, **Company B**, to perform due diligence on overseas companies on a pro-bono basis. Analysis performed for the NAO in September 2020 suggested that, for approximately 2,600 companies where the DD team performed full due diligence, the outcome status was Red: 31% Amber: 49% Green: 20%.²²⁶
- 3.183. As explained in the first Cabinet Office corporate statement to Module 5 at paragraph 5.26 onwards, the Due Diligence activity performed by the Cabinet Office Markets and

²²³ CG/236 - INQ000513330

²²⁴ CG/237 - INQ000498331

²²⁵ CG/238 - INQ000533276

²²⁶ CG/239 - INQ000498305

Suppliers Team was reviewed by the Government Counter-Fraud Function on 2 and 3 May 2020, following a request by the GCCO. A number of changes were made following this review as described in paragraph 5.31 of the first Cabinet Office corporate statement to Module 5.

- 3.184. Foreign counterparties were normally checked through the FCO, which retained a specialist consultancy to perform this function. The results of due diligence were normally recorded in the Mendix casefile and/or in the 'Closing Pack' presented to the DHSC AO for final contract approval.
- 3.185. In the earliest weeks of the PPE Buy Cell's existence, until 6 April 2020, the caseworker system (Mendix) did not exist, so records may have been held locally. As explained in paragraphs 3.93–3.97, it has not been possible to verify that Due Diligence was performed on every company that was awarded a contract. However, that may be an issue of record keeping, as opposed to meaning that due diligence was not done.
- 3.186. After the establishment of the Clearance Board on 6 May 2020, a Deal Form was completed for every potential contract over £5m. This Deal Form routinely included the Due Diligence status of the counterparty. There is evidence from the minutes of the Clearance Board that counterparties with missing information, or with identified risks, were the subject of discussion, and mitigation actions (in particular limiting exposure to upfront payments, obtaining parent company guarantees and accessing further financial information) were requested as a condition for endorsing the deal.
- 3.187. As explained in paragraph 3.125, the Clearance Board also questioned the risk of modern slavery arising in the supply chains of a number of suppliers. These concerns were often raised because of reports of the labour practices of some suppliers in Thailand and Malaya that relied on migrant labour. There is evidence that some specialist reports were obtained regarding these labour practices before deals proceeded to contract, and other deals were held up while further assurances were sought. In addition, suppliers were expected to comply with DHSC standard terms and conditions on this point.

Pricing benchmarks

- 3.188. From the earliest days of the PPE Buy Cell, there was a condition that DHSC should make all reasonable attempts to ensure prices are less than 25% above the running

average of prices paid for similar goods in the preceding 14 days.²²⁷ This stipulation was a condition of the spending approval granted by the Chief Secretary to the Treasury on 24 April 2020.²²⁸

Clearance Board Minutes

- 3.189. The spreadsheet exhibited²²⁹ lists which deals were passed first time, which passed back for rework including renegotiation and which were rejected as 'unsuitable'. The reasons for rejection are contained in the minutes and include: unsuitable counterparties, goods no longer needed, or price not acceptable. The reasons for renegotiation are contained in the minutes and include concerns over: price, payment terms and modern slavery compliance. This sheet only contains deals between 6 May 2020 and 30 June 2020 during which time the chair and secretariat of the Clearance Board were held by the Cabinet Office. For the few remaining deals after 30 June 2020, information will be held by DHSC.

Investigations of PPE purchasing activity post pandemic

- 3.190. As described in paragraph 6.7 of the first Cabinet Office corporate statement to Module 5, on the instructions of the GCCO, some transactions were investigated after the end of buying activity in July 2020. These investigations were in response to press or broadcast stories alleging unfair treatment of a PPE supplier or possible malpractice. The evidence gathered is exhibited here:

3.190.1. In 6.7.1, a company in Yorkshire was alleged to have been refused a contract because of lack of 'connections'. In fact this company offered goods with a disputed CE mark, as the certifying body denied that it had ever certified PPE.²³⁰

3.190.2. In 6.7.2, another company based in South Wales alleged that it had offered goods at a price below that later paid to Ayanda for a similar specification. In fact this company made many offers, none of which was accompanied by correct documentation for the product and all of which were rejected.²³¹

3.190.3. In 6.7.3 we described a dealer in Hong Kong who repeatedly told us

²²⁷ CG/189 - INQ000496704

²²⁸ CG/241 - **INQ000513326**

²²⁹ CG/206 - INQ000513348

²³⁰ CG/242 - INQ000498364

²³¹ CG/243 - INQ000513350

that our processes were flawed and we should essentially delegate buying to him. There were good reasons for rejecting this suggestion, such as his idea that we could obtain any recourse from the testing house for the materials. After a long correspondence taking much caseworker and management time, we stopped communicating with this gentleman.²³²

- 3.191. I have been asked to “confirm whether the Cabinet Office considered that the apparent continued visibility of HPL (or ‘VIP’) offers, as well as apparently continued opportunity to push and query the processes relating to HPL offers, as a whole, to be equal treatment as compared to open source offers”. The premise of the question is that there was ‘pushing’ of processes only on the HPL, but it is important to note that it was also expected of caseworkers on the non-HPL route that they also communicate back and forth with suppliers with regard their offers; and some suppliers repeatedly contacted non-HPL caseworkers about their case, threatened escalation and/or actually escalated it to MPs and ministers, so that there was ‘pushing’ on both routes. Such ‘pushing’ will often occur when sellers have access to a ‘hot’ commodity, and was also a function of the chaotic market at the time: almost all the offers processed by the Opportunities Teams (including in the HPL) came from intermediaries, and these offers were frequently time sensitive as the factory making the PPE would sell to the first buyer who could commit funds to a purchase. It is my understanding that any extra ‘noise’ in the HPL came from referrers rather than suppliers and referrers generally were more interested to know that the system was working and that orders were being processed than the specific outcome of any given case. Those who work in procurement have experience in disregarding ‘noise’ during a procurement process.
- 3.192. As to whether there was unequal treatment more generally, the judgement given by Mrs Justice O’Farrell in the judicial review proceedings brought against DHSC considered equal treatment.²³³ The judgement stated that the use of the HPL breached equal treatment rules, although the specific contracts considered during the judicial review would likely have been awarded in any event, based on the merits of the offers. It will obviously be for different witnesses to explain their view of the HPL and for the Inquiry to reach its own conclusions on their evidence. I note that the extent of the advantage in any particular case should be carefully evaluated, as it was in the judicial review. Relevant factors, as I understand them to be, include:

²³² CG/244 - INQ000498298

²³³ [2022] EWHC 46 (TCC)

- 3.192.1. The HPL should be placed in its context: it was an initial check to see if an offer was credible enough to go on to the next stages (Technical Assurance and then Closing). The subsequent stages were independent of the Opportunities teams, did not award a contract based on whether a referrer was a 'VIP', and did not prioritise HPL cases over other cases. It was intended that **any** high quality offers be progressed rapidly.
- 3.192.2. As to whether HPL offers were progressed more rapidly than high quality offers on the general lane: the HPL often suffered from a backlog and struggled to progress offers swiftly. The general opportunities route had far more caseworkers, and although it had many more cases, it also had a system for picking up and prioritising high value offers. The systems on the HPL and on the non-HPL route worked with greater or lesser efficacy at different stages, depending for example on the number of cases in the backlog for either route. Comparisons suggest that offers on the general opportunities lane were on average progressed to contract at least at comparable speed to offers on the HPL (see paragraph 3.146). The Technical Assurance team were often the bottleneck throughout April 2020, with some cases taking weeks to get through technical assurance, and this was generally much more significant a variable than the time taken for an initial response at the HPL stage.
- 3.192.3. Those cases on the HPL which obtained contracts did so because they passed Technical Assurance and were deemed to be selling needed goods for an appropriate price. The vast majority of offers on the HPL did not get contracts, and whilst proportionately more offers on the HPL received contracts than those on the non-HPL, this is not a like for like comparison, as many of the offers on the non-HPL stream were of poor quality (for example not passing the first step of having left sufficient contact information or responding to call backs) for the reasons set out in the first Cabinet Office corporate statement to Module 5 at paragraph 4.492.
- 3.193. Whilst it is for the Inquiry to consider the extent of any advantage of the HPL, it is important to recognise these factors, particularly when the nature of the HPL process has on occasion been misunderstood publicly.

- 3.194. I note also that the team was established at a time of great national emergency when PPE supplies globally had collapsed and it was thought to be a matter of life and death for clinicians whether PPE was purchased. At that stage, it is my understanding that the overriding imperative was to locate individuals who in fact had access to PPE, however they were introduced. As explained in the first Cabinet Office corporate statement to Module 5 at paragraph 1.30, some companies which did not have a background in PPE did go on to secure significant amounts of PPE.
- 3.195. Finally, I note that there were various reasons why a separate team developed: including (i) in order to deal with potentially 'noisy' referrers and (ii) to respond to big offers with very large companies who may not have been prepared to fill in a webform in order to deal with government. In any similar future crisis, the same pressures are likely to arise and this reality must be taken into consideration in any recommendations for the future.

Transparency

- 3.196. The Inquiry has queried whether "the risk of legal challenge" is or should be a relevant factor when delaying publishing procurement notices. By way of clarification of paragraph 3.30 of the Cabinet Office's first corporate statement to Module 5, the publication of notices in respect of PPE contracts was not purposefully delayed to avoid a specific legal challenge. DHSC's evidence for the judicial review on the publishing of the PPE contracts was that there was no policy to de-prioritise compliance with Regulation 50 or the Transparency Guidance in respect of the publication of CANs.
- 3.197. Rather, the time was spent obtaining, reviewing and inputting the correct information. It is part of routine government business to seek to mitigate the risks of legal challenge, both because that improves government decision making in itself, and because even a legal challenge which fails against the government will be time consuming and costly for all sides. Decisions must be lawful, but should also be taken - and be seen to be taken - in a way that best achieves policy and operational objectives lawfully, which includes consideration of legal risks and how best to mitigate them.
- 3.198. The required content of CANs (Contract Award Notice) and CFNs (Contracts Finder Notice) is addressed at paragraphs 6.40-6.43. Significant information is required to be published which can be and often is subject to close scrutiny. Legal challenges could themselves be based on the release of partial or incorrect information, especially if the information required by Regulations or guidance is missing. Any such challenge can

be time-consuming and costly for the contracting authority and the challenger.

- 3.199. The Cabinet Office would obviously wish that all necessary transparency notices are published within the deadline and with all the information required.
- 3.200. As set out at paragraphs 3.32 and 3.33, there were particular pressures on resources during the pandemic which led to a situation where the notices for PPE could not be processed by DHSC within the required time periods. Those time periods were not set with the volume and urgent nature of the emergency procurement of the sort witnessed during the pandemic in mind.
- 3.201. It is not simply a matter of preference whether information is included in a notice. The regulations stipulate that CANs and CFNs have to contain all the information set out at paragraphs 6.40-6.43. A notice published without the required information is not a valid notice. Publishing an incomplete or inaccurate CAN or CFN is a breach of the regulations, in the same way publishing a CAN or CFN late is a breach of the regulations.
- 3.202. A department which is in such a situation is placed in a difficult position where if it delays to obtain more information it may be in breach of the regulations, and if it publishes without all the required information it would be in breach of the regulations in any event.
- 3.203. The decision as to how to act in such a situation will be one for the relevant department taking into consideration all the circumstances, including where the public interest lies. In the case of PPE and Test and Trace, the relevant department was DHSC.
- 3.204. In the case of the Ventilator Challenge, initial CANs were published by the Cabinet Office in May, August and December 2020. Further CANs were published in 2023 reflecting the actual spend under the contracts (see the first Cabinet Office corporate statement to Module 5, paragraphs 3.29 and 4.120-4.122).

Reorganising the PPE Buy Cell

- 3.205. The Cabinet Office's first corporate statement to Module 5, paragraph 4.515 describes the appointment of external consultants (4C) to help design the transition to the "steady state" PPE buying activities. The Inquiry has asked for further detail about how this appointment was made. The quickest way to run such a procurement via a formal competitive procedure in the Regulations would be to use an existing consultancy

framework and run a mini-competition between suitably qualified suppliers on the framework. This is a common way of obtaining consultancy support, but it takes at least 3-4 weeks, even moving at pace. The informal competition (resulting in a direct award following a voluntary competition to ensure value for money) referred to at paragraph 4.515 of the Cabinet Office's first corporate statement to Module 5 was completed in one week, which was necessary to meet the demanding timetable of the PPE Buy Cell.

4. SECTION 4: TEST & TRACE

Overview

- 4.1. This section builds on the information provided in the first Cabinet Office corporate statement to Module 5. This section also explains the context of some of the policy decisions taken with regard to testing and operational delivery alongside the procurement activities delivered by commercial experts in the GCF.

Preparedness

- 4.2. As stated in Gareth Rhys Williams' Cabinet Office corporate statement to Module 1 at paragraph 3.3, the GCF was not instructed to undertake preparatory work prior to the pandemic. This also applied to preparation for procurement in connection with the introduction of mass testing. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.154, the first commercial expert from the Complex Transactions Team (CTT), Dr Beverley Jandziol, was assigned to work on scaling up testing capacity to deal with the demands of the pandemic on 18 March 2020. Dr Jandziol and other colleagues from CTT formed part of a commercial testing team which was set up from scratch, as prior to this, the Cabinet Office was not aware that any organisation or person had been tasked with the procurement of equipment to build testing capacity on a mass scale.²³⁴
- 4.3. Indeed, testing had never before been undertaken in the UK at the scale demanded by COVID-19. In terms of procurement preparedness, the procurement 'system' was prepared in terms of availability of standard T&Cs, policies and procedures and presence of accredited commercial professionals. In addition there were some existing framework agreements such as the PHE Microbiology framework and the Pathology and Point of Care Testing framework, however these frameworks had not been sized for contracts of the scale needed for mass testing. To add to the challenge, new suppliers and products were entering the market quickly to address the challenges presented by the pandemic, and many of these suppliers were not accessible via framework agreements. Within this system the new commercial testing team had to be formed and operate immediately in challenging conditions with low market leverage. The commercial testing team followed standard procurement practices and operated within the existing system of procurement regulations.

²³⁴ The Cabinet Office is aware that Public Health England had some testing capacity that was being used to test for COVID-19 in the early stage of the pandemic.

Testing pre-pandemic

- 4.4. In March 2020, PCR testing capacity was split across many locations and was not under a single management structure because it was designed to meet the needs of “business as usual” operations in the NHS and PHE, and not the emergency situation resulting from the pandemic. It was and is the responsibility of individual health trusts to provide, or arrange access to sufficient ‘path lab’ capacity to meet the needs of that trust. Testing is performed in an acute hospital on behalf of doctors and other health professionals who need to diagnose a range of conditions, and who may or may not need a swift response depending on the patient’s situation. In the pandemic, testing was for a single pathogen and in all cases needed a swift response to enable treatment to start and/or make a decision about isolation.
- 4.5. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.157 the fragmented nature of the testing capacity available in March 2020 made it difficult to optimise and get the most from the human and machine assets that were deployed. This pre-existing network of NHS/PHE labs was scaled up to help address this new demand, however as discussed in the first Cabinet Office corporate statement to Module 5 at paragraph 4.159, meetings were held between DHSC, PHE and the CMO to discuss testing strategy and it was recognised that this pre-existing network would reach a limit (due to staff capacity, physical space restrictions in labs and also servicing other testing requirements in the NHS) and therefore separate dedicated COVID-19 labs would need to be established. This led to the establishment of the “Lighthouse laboratories” and the later expansion of this network. By concentrating machines and trained operators in bigger facilities it was easier to understand materials requirements, record stock levels of consumables, manage human and other resources and operate large-scale shift-working to provide 24 hour operation capability.

Making Lateral Flow tests in the UK

- 4.6. The first Cabinet Office corporate statement to Module 5, at paragraphs 4.261–4.271, described an initiative to manufacture LFTs in the UK, which led to contracts with Surescreen Diagnostics, a specialist manufacturer in Derby, for the purchase of a significant quantity of LFTs. Many of the components of these tests were manufactured and sourced from abroad; however combining these components into a performant test that can be manufactured consistently is a skilled task.
- 4.7. Depending on the design, the Bill of Materials for an LFT consists of around 60 items,

including all ancillaries (swabs, sample tubes) needed to conduct the test. While some of these items are simple plastic mouldings, others are complex chemical compounds (antibodies, colloidal gold) or specialist wicking materials (nitrocellulose, glassfibre pads). Some items suitable for use in LFTs were already made in the UK, and there was the potential to set up manufacturing for others. Other items required heavy investment in manufacturing equipment (such as for cellulose production) and required time and expertise before production lines reliably produced the right quality of material. The “UK LFT Make” project looked at all these components and determined how feasible it would be to bring manufacturing into the UK. In the event, during the peak period of LFT manufacture in 2021, international supply chains were stable enough to allow uninterrupted production of LFTs in the UK, and it was not necessary to make more LFT components in the UK.

Supply issues

- 4.8. As stated in the first Cabinet Office corporate statement to Module 5 at para 4.202, the commercial testing team purchased consumables for publicly owned laboratories and on occasion for third party labs where there were bottlenecks in supply. Bottlenecks were encountered in the supply of ethanol (which was in heavy demand for use as a key component of hand sanitiser), lysis (buffer solution) and some reagents for use in PCR testing (e.g. RNA extraction and other reagents that were compatible with the PCR machine estate in operation).
- 4.9. No steps were taken to centralise such purchasing before the pandemic other than through the formation of NHS Supply Chain, which existed to consolidate the purchase of common healthcare goods and services across the NHS. NHS Supply Chain’s portfolio of goods and services did extend to the specialist consumables used in laboratory work²³⁵, but as these frameworks were limited by value, there was no framework capacity to deal with the large volumes and some key suppliers were not accessible through NHS Supply Chain’s framework contract.
- 4.10. Centralisation led to larger contracts being placed and a single price being negotiated for in-demand goods, which stopped NHS entities bidding against other NHS entities. Centralisation required a degree of coordination, extra resources and work to distribute the goods acquired through centralised purchasing. Logistics contracts set up for mass swab testing for critical key workers in the NHS, social care and other sectors were used for shipping and cold storage where needed. External logistics contracts (for

²³⁵ CG/245 - INQ000498287

movement of testing-related goods into the UK) were the responsibility of DHSC colleagues.

- 4.11. The Cabinet Office staff led and had key positions in the commercial testing team which put in place these centralised purchasing arrangements. The contracts themselves were approved through the Cabinet Office controls process before being approved by the DHSC AO and signed on behalf of the Health Secretary by DHSC Commercial.
- 4.12. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.203, prior to the pandemic the principal framework agreement used for buying testing supplies was the PHE Microbiology Framework Contract, first let in 2016. Lot 1 of this framework covered diagnostic equipment. During the pandemic the value of contracts that needed to be let exceeded the ceiling value of this framework, which was £80 million. This framework contract included access to 59 suppliers, as listed in the award notice. No other suppliers could be accessed using this framework, such as for example suppliers with new products like the LFTs available from Innova.
- 4.13. As was the case with most PPE contracts let through the PPE Buy Cell, many testing contracts used the DHSC standard terms and conditions for the supply of goods. This was in accordance with instructions issued by Rick Webb, Deputy Director and Head of Procurement Policy, Systems and Intelligence in the DHSC Commercial Directorate on 6 April 2020.²³⁶ Sometimes adaptations to these terms and conditions were necessary and any decisions on changes were made by DHSC with support from the Government Legal Department (GLD).

Operation Moonshot and mass testing

- 4.14. The background to Operation Moonshot is outlined at paragraphs 4.228 and 4.251 of the first Cabinet Office corporate statement to Module 5. It was a mass testing programme established within NHS Test and Trace, following direction from No.10, including the Prime Minister and Dominic Cummings. The Cabinet Office anticipates providing further detail on Operation Moonshot as part of Module 7.
- 4.15. Operation Moonshot, or mass/population testing, had four objectives or 'Missions'.²³⁷ Mission 1 was to regularly test large numbers of the general population, including those who were asymptomatic. Mission 2 was to test asymptomatic NHS staff. Mission 3 was to conduct 'institutional' testing, for example in schools. Mission 4 was to

²³⁶ CG/246 - INQ000496903

²³⁷ CG/247 - INQ000498303

conduct agile and comprehensive testing to identify and contain outbreaks. In the absence of an effective vaccine or drug-based treatment, mass testing was viewed as a potential method for avoiding national lockdown.

- 4.16. Within NHS Test and Trace, the deployment of Operation Moonshot was led by Alex Cooper. Immediately prior to this assignment, Alex Cooper had worked for Tom Shinner as part of the No.10 COVID coordination cell. Jacqui Rock was the Chief Commercial Officer of NHS Test and Trace as described in paragraph 4.229 of the first Cabinet Office corporate statement to Module 5. From the Cabinet Office Complex Transactions Team, Dr Beverley Jandziol was deployed to support DHSC as Commercial Lead for the 'Moonshot' programme: see paragraphs 4.154 and 4.177. The Cabinet Secretary, as well as officials from No.10 and the COVID-19 Taskforce, also supported work to accelerate the achievement of the Prime Minister's mass testing ambition, primarily during the second half of 2020.
- 4.17. Pillar 5 of the DHSC National Testing Strategy, which was published on 4 April 2020²³⁸ was 'Spearheading a Diagnostics National Effort to build a mass-testing capacity at a completely new scale' – see paragraphs 4.190.5 and 4.192 of the first Cabinet Office statement in this module). This remained an objective throughout the spring and summer of 2020. Following the publication of the National Testing Strategy a 'deep dive' on testing was held at No.10 on 14 April 2020 chaired by Dominic Raab (who was deputising for the Prime Minister). The Health Secretary gave an update on progress against testing capacity targets as set out in the plan, and noted in relation to the fifth pillar the success of the call to arms.²³⁹
- 4.18. The objective of Operation Moonshot was in line with Pillar Five and intended "to accelerate a safe return to normality" by delivering a major expansion of testing – from circa 200k–800k tests per day in August 2020 towards a vision of 10m tests per day by early 2021 (i.e. weekly testing available to the whole population).²⁴⁰ The project built on efforts to validate technologies for delivering asymptomatic and pre-symptomatic testing at scale, outlined at paragraphs 4.222–4.228.
- 4.19. In the Summer of 2020, cases were rising and there were early signs of a second wave of infection in Europe.
- 4.20. In May 2020 a pilot study had been conducted by Professor Keith Godfrey, from the University of Southampton, to investigate the effectiveness of weekly population-based

²³⁸ CG/248 - INQ000106325

²³⁹ CG/249 - INQ000088699

²⁴⁰ CG/250 - INQ000324875

saliva testing with the OptiGene LAMP assay. Professor Godfrey had discussed his work with William Warr and James Philips in No.10: Beverley Jandziol from Cabinet Office was already assessing the OptiGene LAMP project, and she provided a submission to Lord Bethell and the Health Secretary for a feasibility study which was approved.²⁴¹ The study was funded by DHSC, and followed discussions which included the Chief Medical Officer, Professor Paul Cosford (Medical Director, Public Health England) and the senior clinicians group.²⁴² Professor Godfrey met with No.10 officials and advisers, alongside senior scientific members of SAGE (including the CSA, DCMO and others) to discuss the outcomes of the pilot on 22 July, where there had been “unanimous support for urgent research, development and implementation of the technologies and infrastructure that allow faster, simpler, and more scaled testing for COVID-19”.²⁴³ On 23 July, Professor Godfrey wrote to the Prime Minister seeking support for the ‘Phoenix program’, which he described as a ‘national program to robustly manage COVID-19 without lockdown...by testing whole communities and populations with lower sensitivity, higher scalability tests, as a complement to NHS test and trace’.²⁴⁴

- 4.21. The following day, on 24 July, the Prime Minister met with Professor Godfrey and others to discuss the next steps to take forward population testing. The agenda for this meeting, as well as a supporting note provided for this meeting by the CSA are exhibited.²⁴⁵ At this meeting, the Prime Minister and Health Secretary expressed their support for developing population testing, and the Prime Minister asked Dido Harding, supported by No.10 and the Taskforce as needed, to lead NHS Test and Trace in taking this programme of work forward. The readout from this meeting also notes that the Prime Minister asked for a “very rapid rollout [of testing] to a specific geographic area with high prevalence” to be implemented in parallel with this plan, with Leicester and Blackburn raised as options.²⁴⁶
- 4.22. From August until early 2021, the Prime Minister held a regular – typically weekly – meeting on population testing, attended by Dido Harding and other senior officials, including from the COVID-19 Taskforce, involved in this work.
- 4.23. At a meeting on population testing held on 5 August 2020,²⁴⁷ it was recorded that the

²⁴¹ CG/251 - INQ000513322; CG/252 - INQ000498299

²⁴² CG/253 - INQ000498288

²⁴³ CG/254 - INQ000137242

²⁴⁴ CG/254 - INQ000137242

²⁴⁵ CG/255 - INQ000218334; CG/256 - INQ000137243

²⁴⁶ This meeting readout is exhibited CG/257 - INQ000471023

²⁴⁷ CG/258 - INQ000471024

Prime Minister was clear that Cabinet Office and HMT should provide all necessary regulatory approvals to allow this work to proceed urgently, with exemptions provided from usual processes. A further meeting took place on 12 August 2020, at which the Prime Minister again emphasised that all obstacles must be removed. The Prime Minister stressed the importance of “moving every possible obstacle...to bring forward from Christmas by six weeks given the importance of [the mass testing] work to the economy”, and agreed that Dominic Cummings and the Cabinet Secretary, Simon Case, should work to remove any obstacles to this posed by Cabinet Office and HMT processes.²⁴⁸

- 4.24. Following the 12 August 2020 meeting, there was discussion about raising the delegated approval thresholds for DHSC spend on Test and Trace²⁴⁹ which was raised again at a further population testing meeting chaired by the Chancellor of the Exchequer on 20 August 2020.²⁵⁰ The Chief Scientific Adviser and Chief Medical Officer were at each of these meetings. Ultimately the Cabinet Office and HMT agreed the delegated spend increases, although in a letter to DHSC Lord Agnew and Steve Barclay MP reiterated the need for DHSC’s internal processes to provide adequate defences against poor value for money or misuse of public funds.²⁵¹
- 4.25. Testing meetings with the Prime Minister continued throughout August and early September. At a meeting on 11 September 2020, the potential for delays in the procurement process were raised and it was suggested that Lord Bethell chaired a daily meeting in order to clear any outstanding commercial agreements.²⁵²
- 4.26. On 2 October 2020 a further PM meeting on population testing was held.²⁵³ At that meeting it was set out that all available LFTs in the global stock should be purchased that day. It was anticipated that, were they not purchased promptly, then a global bidding war would develop akin to that which had occurred for PPE in the first wave of the pandemic. On 28 September 2020 the World Health Organisation had announced its partnership to purchase 120 million lateral flow tests and President Trump had announced the distribution of 120 million tests in the United States of America. There was correspondence between David Williams at DHSC, the Cabinet Secretary, and HMT, in relation to the controls relating to this procurement.²⁵⁴ A business case was

²⁴⁸ CG/259 - INQ000498301

²⁴⁹ CG/260 - INQ000498302

²⁵⁰ CG/261 - INQ000471025

²⁵¹ CG/262 - INQ000473893

²⁵² CG/263 - INQ000471027 and CG/264 - INQ000471026. Cabinet Office staff were not involved in the daily meetings so any records would be held by DHSC and/or UKHSA.

²⁵³ CG/265 - INQ000477942

²⁵⁴ CG/266 - INQ000471029

provided by DHSC on 4 October 2020 in relation to procurement of LFTs,²⁵⁵ with questions from Lord Agnew recorded and answered in the covering email.²⁵⁶ This business case noted, among other considerations, the recent Porton Down testing results (at paragraph 8). This spend was approved by the Chief Secretary to the Treasury, Steve Barclay MP, on 5 October 2020.²⁵⁷ At this stage the mass testing spending envelope stood at £2.91 billion. Contracting over the weekend of 2–5 October 2020 amounted to a further 223.5 million lateral flow tests.²⁵⁸ Beverley Jandziol led the team responsible for the procurements.

- 4.27. Efforts to accelerate the mass testing programme continued throughout November and into December. At the weekly testing meeting on 17 December 2020, against the backdrop of increasing cases and capacity pressures for testing, the Prime Minister agreed that given the ambition of the programme and the risk of creating “unmanageable demand pressures...it would not be right for major population testing above current plans” before Christmas.²⁵⁹

Monitoring of mass testing and local authorities

- 4.28. The deployment and trialling of the above LFTs was announced by the Prime Minister in a speech on 16 October 2020. It was identified in that speech that “*over the next few weeks we will start distributing and trialling these tests across the country... I have instructed my team to ensure that Liverpool City Region, Lancashire, and any other areas which enter into the Very High alert level are immediately prioritised for those tests.*”²⁶⁰ On the same day it was confirmed in a press release that: “Hospitals in Manchester, Liverpool, Birmingham, Leeds, Newcastle, Basingstoke and Southampton will test asymptomatic NHS staff, whilst new “lateral flow tests” - swab tests that do not require a lab for processing - will be sent to adult social care settings, schools and universities in the hardest hit areas”. Testing pilots were therefore directed in part to areas which had high incidence of COVID-19 at the time, though other sites (such as Southampton or Basingstoke) were already locations of testing hubs and LAMP technology. That mass testing might be available in high prevalence areas was a matter included in the discussions at the time with local leaders in relation to what ‘tiering’ restrictions they would agree to in their area.

²⁵⁵ CG/267 - INQ000513343

²⁵⁶ CG/268 - INQ000513342

²⁵⁷ CG/269 - INQ000480131

²⁵⁸ CG/270 - INQ000513341

²⁵⁹ CG/271 - INQ000498321

²⁶⁰ CG/272 - INQ000086826

- 4.29. The testing pilots had different roles, as explained in paragraph 4.15. Pilot testing in Basingstoke, Birmingham, Southampton and Manchester, for example, tested asymptomatic NHS employees. This differed from the mass testing pilot in Liverpool which tested the general population.
- 4.30. In the course of the pilot testing in Liverpool, the Cabinet Office was involved in discussions as to how local planning and strategy could best be supported by the centre.²⁶¹ Kate Josephs and Jessie Owen from Cabinet Office tracked Mass Testing policy for the Cabinet Office.²⁶²
- 4.31. Over this period (November 2020), concerns were raised by the Cabinet Office's COVID-19 Taskforce Field Teams from their research on the ground that local authorities were not being informed with sufficient time about mass testing plans.²⁶³ This was reported on to DHSC, and DHSC and MHCLG continued to lead engagement with local authorities.²⁶⁴ There were calls to individual local authorities from 18 November 2020 onwards.²⁶⁵ The Cabinet Office continued to assist in engagement with DAs under the leadership of DHSC.²⁶⁶ The Behavioural Insights Team also carried out a study in conjunction with William Warr from No.10 looking at Slovakia's approach to whole population testing.²⁶⁷
- 4.32. Mass testing strategy was considered by the COVID-O meeting on 21 November 2020 where it was decided that the proposals for mass testing should be reconsidered.²⁶⁸
- 4.33. CTT staff in the commercial testing team were also involved in the Design Authority Review ("DAR"), a group who had technical oversight of procurement decisions for the testing supplies. The process was run by PA Consulting on behalf of Emma Stanton (Head of Testing Supplies). The process involved review by various experts including commercial, scientific, legal and MHRA. There were three stages of review:
- 4.33.1. Information was obtained from suppliers based on a standard template, antibody tests were screened out and checks were undertaken to confirm that the test had MHRA accreditation, or was less than three months away from doing so;

²⁶¹ See for example report CG/273 - INQ000498314 provided to the 'top team' on 13 November 2020

²⁶² See organogram CG/274 - INQ000498315

²⁶³ CG/275 - INQ000498316

²⁶⁴ CG/276 - INQ000498317

²⁶⁵ CG/277 - INQ000498318

²⁶⁶ CG/278 - see for example INQ000498313

²⁶⁷ CG/279 - INQ000498320

²⁶⁸ CG/280 - INQ000090954

- 4.33.2. The Design Authority Review stage involved the review of technical information by the scientific team, test kit validation by the NHS scientists and PHE at Porton Down, and a preliminary commercial and manufacturing assessment; and
- 4.33.3. A decision roundtable was held to make a final evaluation before proceeding with contract signing.

Journal and press reporting on the testing programme

- 4.34. I understand the Inquiry is interested in reports in the medical and other media on concerns raised about the efficacy of lateral flow devices for mass community testing. For example an article published on 4 December 2020, after procurement decisions had been taken, describes research commissioned by DHSC to evaluate the efficacy of lateral flow devices for mass community testing.²⁶⁹
- 4.35. The fact that lateral flow testing was less sensitive than other types of test – producing significant numbers of false negatives – was known by NHS Test and Trace (and shared with the Prime Minister) prior to the conclusion of the contract with Innova on 17 September 2020 (paragraph 4.256.2 of the first Cabinet Office statement for module 5).²⁷⁰ A scientific paper (Mina, 2020) that was circulating in NHS Test and Trace at the time contrasted the performance of LFTs with PCR testing, and concluded that the lower sensitivity LFTs were likely to detect test subjects with high viral loads and who were probably infectious.²⁷¹ By contrast, since the RNA of the virus would persist in the body of an infected person for several weeks, many PCR positive results were obtained from test subjects after their infection had peaked and who were no longer infectious. This knowledge informed the advice regarding the use of LFT technology, in particular the extent to which reliance could be placed on a negative LFT result. It was recognised by Test and Trace that there were three objectives to testing: ‘Protect’, ‘Find’ and ‘Enable’. ‘Protect’ concerned those at highest risk, and aimed to prevent transmission in high-consequence settings such as care homes. ‘Find’ involved reducing transmission in the community. ‘Enable’ meant freeing people to engage in safe social-economic activity. The relative strengths and weaknesses of any given test when it came to scalability, specificity and sensitivity might suit it for one

²⁶⁹ CG/281 - INQ000498351

²⁷⁰ CG/282 - INQ000137258, slide 2, NHS Test and Trace briefing to the Prime Minister re mass testing dated 10 September 2020, referencing “commercial discussions in progress” with Innova (slide 3); see also CG/283 - INQ000498309 - NHS Test and Trace briefing to the Prime Minister re mass testing dated 23 October 2020, referencing 55% detection of true positives by LFT.

²⁷¹ CG/284 - INQ000498355

objective more than another. LFTs with low sensitivity might still be used in conjunction with frequent repeat testing so as to indicate that the patient did not have a high viral load and so was less likely to spread infection. For instance, advice to the Prime Minister in October 2020 updated him on the various roles that Innova LFTs might play in relation to Protect, Find and Enable, and noted that further work was needed to understand their reliability for Enable uses (i.e. as a 'green light' to release people from self-isolation).²⁷²

- 4.36. The Porton Down validation facility is discussed at paragraph 4.255 of the first Cabinet Office corporate witness statement in this module. It was understood prior to the release of the results from this study that test sensitivity would likely be lower outside laboratory conditions, with usability studies (in partnership with the manufacturer) being identified as necessary to achieve regulatory approval of such devices for at-home use.²⁷³ A preliminary report from the referenced Porton Down study was shared with the government on 8 November 2020,²⁷⁴ concluding that while “the performance characteristics of the Innova LFD [...] are good with a low failure rate, high specificity 99.6% and high viral antigen detection” there were indications that operator skill impacted these results (“[t]he delivery of appropriate training appears important to test performance”) and that further research was needed “to understand [...] the effect of operator/training effects upon performance characteristics”. This is consistent with the advice given to the Prime Minister in October 2020 discussed at paragraph 4.35 above. It noted that further consideration was needed of whether approaches such as serial LFD testing can allow for a shortening of the self-isolation period for contacts from 14 days”).²⁷⁵
- 4.37. On 11 November 2020, a press release was issued to announce these findings, which stated that “[t]he devices are designed to be intuitive and require minimal training to operate, and PHE and the University of Oxford are now looking at how this test could be self-administered.”²⁷⁶ The release stated that PHE Porton Down’s labs have shown four lateral flow tests to have a sensitivity of more than 70% of all PCR positive cases but importantly catch all those with high viral loads, meaning they are effective in identifying the cases who are infectious and are most likely to transmit the disease. The fast turnaround also allows positive people to isolate quickly, also reducing spread.

²⁷² CG/283 - INQ000498309, supra, NHS Test and Trace update to PM 23 Oct 20, slide 1.

²⁷³ CG/285 - INQ000513344

²⁷⁴ CG/286 - INQ000396180, p.5 describes the relationship between sensitivity and level of training.

²⁷⁵ CG/287 - INQ000498308, 26 October 2023, readout of meeting with PM re LFTs.

²⁷⁶ CG/288 - INQ000498352

- 4.38. I understand this to be consistent with internal documents. On 9 November 2020, an internal DHSC briefing document stated that while the likelihood of a false negative from a seriously infectious person was thought to be extremely unlikely, the distinct possibility of false negatives in less infectious persons meant that negative results from lateral flow testing should be treated with caution.²⁷⁷ In December 2020, a policy paper regarding community testing noted that “The measured test sensitivity, in ideal hands, is 78% [...] although sensitivity is likely to be lower under operational conditions”.²⁷⁸
- 4.39. The fitness for purpose of tests (for the intended use) was a testing policy decision rather than a commercial decision.

OptiGene

- 4.40. I have been further asked to comment on an article dated 5 November 2020 published in the *Guardian* newspaper relating to the use of OptiGene tests in Manchester in October 2020.²⁷⁹
- 4.41. Engagement between the Cabinet Office and OptiGene from March/April 2020 led to a proposal for a city-scale mass testing pilot in Southampton,²⁸⁰ which was approved by ministers on 14 May 2020.²⁸¹ There followed an evaluation report in July 2020, recommending that Direct RT-LAMP was suitable for population screening to identify highly contagious individuals.²⁸² The maturity of the technology and its validation formed part of the business case for contracting with OptiGene to secure supply of LAMP testing technology.²⁸³
- 4.42. In October 2020 further pilots were carried out with LAMP machines in Liverpool, Manchester, Southampton, Basingstoke and Birmingham.
- 4.43. The *Guardian* approached the No.10 press office for comment shortly before the publication of the cited article.²⁸⁴ No.10 were informed by DHSC that the results in Manchester had differed from those in the other laboratories which validated the effectiveness of the test. Professor Wilcox of the DHSC technical validation group was quoted to the effect that several other studies had shown that the test had a sensitivity

²⁷⁷ CG/289 - INQ000498311 slide 3 says Innova LFT has high specificity but low sensitivity, but this is dated 7 Nov 20.

²⁷⁸ Annex B to box return at CG/290 - INQ000498319, page 30. This appears to have been published and then revised before being withdrawn – see CG/291 - INQ000498349

²⁷⁹ CG/292 - INQ000498367

²⁸⁰ CG/293 - INQ000513327

²⁸¹ CG/294 - INQ000498285; CG/252 - INQ000498299

²⁸² CG/296 - INQ000498297; CG/297 - INQ000498348

²⁸³ CG/298 - INQ000513340

²⁸⁴ CG/299 - INQ000498310

of “nearly 80%, rising to over 96% in individuals with a higher viral load”. The No.10 press office had sought it to be clarified that this was not related to the Liverpool mass testing pilot which was due to start the following day.

- 4.44. On 1 December 2020 the government issued a press release²⁸⁵ drawing attention to a technical report issued by the NHSTT Scientific Validation and Assurance Group verifying the performance of the OptiGene RT-LAMP tests from pilot studies involving nine NHS trusts and university partners.
- 4.45. As discussed above there was a view within the scientific community to the effect that high-sensitivity testing was not necessary for mass testing to have a significant downward effect on R.

Use of LFT tests

- 4.46. I understand that the Inquiry has asked about the points raised in a BMJ article dated 28 April 2021²⁸⁶, which is understood to be based on a *Guardian* report dated 25 April 2021. As previously explained, questions regarding the fitness for purpose of particular testing technologies, and the use cases that they should be deployed to support, was a testing policy decision rather than a commercial decision. It was known from an early stage that LFT technologies were less sensitive than some other technologies (such as PCR) and that a negative test result did not remove the need for other precautionary measures, such as social distancing, hand-washing and the correct use of PPE.

Technical performance of LFTs

- 4.47. Issues with technical performance and resulting procurement decisions would have been considered in the submissions for commercial spend approval considered by the CCIT. The commercial testing team worked closely with scientists and others at Porton Down and on their staged validation and built in clauses to the contracts to allow for batch related quality control.

Recovery of funds from early expenditure on antibody tests

- 4.48. As explained in 4.208 of the Cabinet Office’s first corporate statement to Module 5, due to the global demand for antibody tests, it was decided that the procurement and validation would occur simultaneously. Unfortunately, none of the first-generation tests passed validation. It is our understanding that the government ordered around £92

²⁸⁵ CG/300 - INQ000496304

²⁸⁶ CG/301 - INQ000498350

million worth of antibody tests and, after failed validation tests, attempts were made to recover funds or repurpose the tests.²⁸⁷ We understand that DHSC were able to cancel around £70 million without liability to DHSC, reassigned approximately £1.5 million of tests to Pillar 4 which looked at surveillance testing and some of the remaining £20.5 million worth of tests were repurposed to be used in research by external research bodies to increase understanding of the prevalence of COVID-19 across the UK. Full records on the amounts recovered will be held by DHSC as the contracting authority.

²⁸⁷ CG/302 - INQ000513333

5. SECTION 5: VENTILATORS

- 5.1. This section builds on the information provided in the first Cabinet Office corporate statement to Module 5.
- 5.2. Paragraphs 4.1 onwards of the Cabinet Office's first corporate statement to Module 5 explain how the Cabinet Office engaged with suppliers to undertake the rapid design and transition to manufacture of ventilators in the Ventilator Challenge. These engagements took the form of direct awards under Regulation 32 of the Public Contracts Regulations 2015.
- 5.3. It would have been obvious at the time that the Ventilator Challenge could not be run, as has been suggested, as a competitive dialogue or innovation partnership.
- 5.4. Neither option would have been appropriate, given the urgent timescales required and the structure of the process. Competitive dialogue can legally only be used for complex procurements and, historically, has only been used for the most complex projects or services, and these multi-round procedures frequently took months if not years to complete. The innovation partnership is a highly specialised and rarely used procedure. Paragraph 59 of the Green Paper for the Procurement Bill explained that: "The hope was to encourage innovation but the complex rules have proved impenetrable to many buyers and they are rarely used. In 2017, only three contract notices for innovation partnerships and five for design contests were published by UK contracting authorities".²⁸⁸
- 5.5. In mid-March 2020, the UK was facing an imminent and significant shortage of ventilators which, if it came to pass, would inevitably have resulted in severe risks to patients.
- 5.6. Under the competitive dialogue and innovation partnership procedures, there would have been a minimum time limit for receipt of requests to participate of 30 days from the date a contract notice was submitted. The competitive dialogue or innovation partnership procedures do not allow for a short period of 15 days in the event of urgency (as is the case for the open procedure). A delay of 30 days before engaging with suppliers would have been too slow. In practice, consultants were on-boarded almost immediately and manufacturing partners quickly thereafter.
- 5.7. The structure of the Ventilator Challenge also would not have been compatible with a competitive dialogue or innovation partnership procedure in that:

²⁸⁸ CG/303 - INQ000475569

- 5.7.1. Under a competitive dialogue or innovative partnership procedure, unless otherwise stated in the tender documents, bidders would have been acting at their risk and cost unless and until they were successful. It is unlikely there would have been the same level of engagement and success (or participants) if consultants and suppliers were not able to recover their costs. If the tender documents had stated that the government would cover bidders' costs, then the potential costs liability would have been even greater as this would need to apply to all bidders, or a selection stage would have been needed to see *which* bidders satisfied criteria to make them eligible for cost recovery.
- 5.7.2. Under a competitive dialogue or innovative partnership procedure, it would have been necessary to set out in the contract notice at the start the needs and requirements of the procurement. As explained in the first Cabinet Office corporate statement to Module 5, the understanding and specification of the requirements for the ventilators developed rapidly and was changed as clinical experience was gained with more and more covid patients. The Cabinet Office would not have been in a position to provide an adequate set of minimum requirements and/or those minimum requirements likely would have changed potentially putting the Cabinet Office in breach of regulation 30(18) or 31(14).
- 5.7.3. Under a competitive dialogue or innovative partnership procedure, unless each bidder agrees otherwise, confidential information communicated by a bidder cannot be shared with other bidders (regulations 30(10) and 31(16)). A key part of the Ventilator Challenge was the co-operation and sharing of ideas between teams.
- 5.7.4. A key part of the Ventilator Challenge was the assistance provided by the Cabinet Office to different suppliers, such as seeking parts and establishing relationships between suppliers and consultants or manufacturers to assist them. That assistance would not have been permitted under a competitive dialogue or innovation partnership procedure.
- 5.8. Overall, the most efficient process was chosen for the Ventilator Challenge. There was a genuine competition, with ventilators assessed by medical experts. The use of a

competitive dialogue or innovation partnership would have been impracticable, introducing numerous hurdles and delays without any apparent benefit. The only potential benefit would have been that the Ventilator Challenge would not have covered participants' costs, however that likely would have dissuaded companies from participating or doing so with such commitment. Alternatively, if it had covered bidders costs it would potentially have been an even greater costs liability.

- 5.9. It would also have been immediately apparent that a procurement for research and development services would not be appropriate. The phrase "research and development services" is used in Regulation 14 of the Public Contracts Regulations 2015 and the Common Procurement Vocabulary Codes. It refers to the subject matter of the procurement, not the type of procurement procedure. In accordance with Regulation 14, a procurement for "research and development services" in connection with ventilators would not have been subject to Part 2 of the Public Contracts Regulations 2015, unless the benefits of the services were to accrue exclusively to the Cabinet Office. For example, if the designs could later be used to produce ventilators for other countries, there is an argument that Regulation 14 would not apply as the benefits would not be exclusively for the Cabinet Office.
- 5.10. If a Ventilator Challenge procurement for research and development services did fall within Part 2, a full procurement would still have been required in order to purchase the ventilators once the research and development was complete. We would have had to wait for all the research and development to be completed before the procurement could have started, rather than progressing with manufacturers as they produced viable designs. We would also have had to consider other matters, such as the need to licence pre-existing IPR. The first research and development phase may also not have considered the ability to scale up and manufacture the ventilators needed, which was a key part of the Ventilator Challenge.
- 5.11. The Inquiry has also queried the decision not to carry out a competitive procurement for further deliveries once the technical specification had settled. The Ventilator Challenge contracts were entered into in circumstances of extreme urgency where it was feared that the NHS was going to run out of ventilators, putting patients at severe risk. In these circumstances the key task was to get working ventilators into Intensive Care Units, and any procedures that delayed this outcome were unacceptable.
- 5.12. The first contract with Penlon was entered on 26 March 2020 because it already had a potentially viable ventilator design (see the first Cabinet Office corporate statement to Module 5, para 4.51.1). The Ventilator Challenge worked with Penlon to scale up its

manufacturing capability (see the first Cabinet Office corporate statement to Module 5, para 4.49).

- 5.13. For the other suppliers, the initial design and prototyping activity was accompanied by work to assess what was needed to manufacture the new ventilator design at pace and at scale, including having suitable, quality-accredited facilities and a supply chain ready to provide all necessary components. It was not enough to have a design capable of gaining MHRA authorisation for emergency use; a 'winning' design needed to have the manufacturing line ready to go, sufficient stocks of components for initial production and a reasonable assurance that all other components for the target volumes could be delivered during the production period, thus delivering the ventilators in as quick a fashion as possible. It would not, therefore, have been appropriate to interrupt the transition from design to production by running a procurement for 'contract' manufacture.
- 5.14. Even if such a competition had been run, the only possible winners would have been the consortium that put forward the design in the first place, as they had the supply chain in place, the facilities, production equipment and personnel ready to manufacture and all necessary IPR secured. Running such a competitive procurement for the production phase would have been illogical.

Collaboration between suppliers

- 5.15. The Inquiry has asked how commercially sensitive information was exchanged between different design teams given the close collaboration between suppliers on the development of designs. As explained in the first Cabinet Office corporate statement to Module 5, generally, intellectual property created by suppliers in the performance of ventilator design contracts with Cabinet Office was vested in the Cabinet Office. The rights to pre-existing Intellectual property created by suppliers and brought into the designs remained the property of those suppliers, although the Cabinet Office has a licence to use such intellectual property to the extent it formed part of the contract deliverable and its use was reasonably required to take the benefit of the relevant contract. The Cabinet Office provided indemnities to suppliers which covered infringements of third-party IP rights. We are not aware of any issues being raised in relation to IPR sharing between suppliers.

Global supply chain support

- 5.16. Each company or group of companies developing ventilator devices for manufacture

worked with and were supported by Cabinet Office commercial leads and consultants from PA Consulting on supply chain issues. For example, the Cabinet Office was assisted by FCO officials posted in other countries to help resolve supply chain issues, including customs clearance and transport problems. The Cabinet Office also supported consortia to source components where there were particular challenges. For example, one ventilator design relied on a key component (a pressure sensor) from Honeywell that could not be obtained due to a factory closure in Mexico. The Cabinet Office worked with Honeywell to reopen the manufacturing line in Mexico.²⁸⁹

Participation of Dyson in the Ventilator Challenge

- 5.17. Paragraph 4.51.3 of the Cabinet Office's first corporate statement to Module 5 describes how letters of commitment were issued to most participants in the Ventilator Challenge whereas Dyson received a contingent order. Other suppliers received different correspondence too as set out in the table at paragraph 4.51.4 of the Cabinet Office's first corporate statement to Module 5.²⁹⁰ As a clarification to paragraph 4.51.3 of the Cabinet Office's first corporate statement to Module 5, which stated Dyson received a contingent order "[a]s an exception", BAE Systems also received a contingent order dated on 2 April 2020 sent on 3 April 2020 for the Florence device.²⁹¹
- 5.18. The Inquiry has asked about the inclusion of Dyson in the Ventilator Challenge. Dyson was invited to the initial 'call to arms' on 16 March 2020 with the Prime Minister together with other companies identified (see the first Cabinet Office corporate statement to Module 5, paragraph 4.33).
- 5.19. I am aware that there was a call between the then Prime Minister and Sir James Dyson on 13 March 2020. In a message sent on the morning of 13 March 2020 by Gareth Rhys Williams to Steve Oldfield of DHSC and Patrick Vallance, Gareth suggested getting a group of engineers together in order to make ventilators urgently. Dyson was cited as an example of a company which the design consultants might be able to work with. Gareth forwarded this email to Munira Mirza and Ben Warner who worked in No.10.²⁹² Later that morning Steve Oldfield reported that his phone number had been given by the Prime Minister to Sir James Dyson and Lord Bamford of JCB.²⁹³

²⁸⁹ CG/304 - INQ000533252

²⁹⁰ As a correction to the table at paragraph 4.51.4 in the Cabinet Office's first corporate statement to Module 5, the two letters dated 10 April 2020 said to have been sent to OES Medical Gemini, were in fact drafts which were not sent. The actual letter sent to OES Medical Gemini was a letter of commitment sent on 30 April 2020 (CG/305 - INQ000562375).

²⁹¹ CG/306 - INQ000533273

²⁹² CG/307 - INQ000533271, CG/308 - INQ000533272

²⁹³ CG/309 - INQ000533270

- 5.20. The invitation to Dyson was justifiable in the same way as that issued to other participants as it is a leading technology and manufacturing company, specialising in products involving air (vacuum cleaners, air purifiers, hand dryers and heaters). Dyson had the engineers, supply chain and manufacturing capability to be a potentially successful supplier of a new ventilator. Dyson's role was as the manufacturer. It was paired with TTP as the designer of the Covent project.
- 5.21. Dyson was then subject to the same TDA process as other potential suppliers to select the participants in the Ventilator Challenge.
- 5.22. The participation of Dyson following the initial TDA process was the subject of discussion between Ministers and officials on 25 March 2020.²⁹⁴
- 5.23. In particular, the CDL instructed that an order was placed with Dyson for 10,000 units. Dyson had a new, prototype design. The order placed with Dyson was subject to two important conditions. The Contingent Order letter that was sent to Dyson stated that the order was contingent on (1) the design gaining clinical and MHRA approval, and (2) a suitable commercial agreement on price.²⁹⁵
- 5.24. Save for the language of a "contingent order", this letter was of the same practical effect as the "letters of commitment" given to most other suppliers, which stated, for example, "We commit to purchasing 13,570 units of the Jarrehead ventilator model, subject to meeting the issued Rapidly Manufacture Ventilation Supply (RMVS) specification v2.1 and regulatory approval."²⁹⁶
- 5.25. Regardless of whether it was a contingent order or a letter of commitment, Dyson and other suppliers still needed to produce a design and prototype which was acceptable to the TDA, and the MHRA, before any formal orders were placed.
- 5.26. The basis on which the Dyson consortium was kept in the Ventilator Challenge process on 24 April 2020 was the same as for the other offers (as listed in the first Cabinet Office corporate statement to Module 5 at para 4.106) that were retained at that stage, but which were not considered the best options.
- 5.27. In paragraph 4.106 of the first Cabinet Office statement for Module 5, reference was made to the decision by CDL and Lord Agnew on 24 April 2020 to (i) proceed with Smiths, Penlon and Breas, (ii) cut the least viable devices, and (iii) continue with

²⁹⁴ CG/310 - INQ000496699; CG/311 - INQ000533247; CG/312 - INQ000533246

²⁹⁵ CG/313 - INQ000477912

²⁹⁶ CG/314 - INQ000477915

others for a further week with capped funding.²⁹⁷ By way of clarification, the readout of the call by Michael Gove's private office which is exhibited to the statement wrongly lists the least clinically viable products to be cut as "the Gemini, the Zephyr, the Oxvent and the Florence". The correct list of devices which were cut was the EVA by Team Cogent, the Helix by Plexus, the OxVent and the InVicto by JFD.²⁹⁸ The Ministers therefore decided to remove 4 out of the 8 devices which the submission to the Ministers on 23 April had recommended cutting.²⁹⁹ The Ministers decided to keep the other 4 (the Piranvent by Swagelok, the Mosquito by Sagentia, the CoVent by Dyson and the Florence by BAE) on for another week.

- 5.28. The error in the readout appears to have come from CDL's Private Office referring to the wrong presentation. After listing the least clinically viable devices, i.e. those being cut, the readout said "see bottom 4 on page 8 of ventilator update slidepack". The presentation appended to the email was a GCF ventilator update dated 24 April 2020. Slide 8 listed different designs, but did not do so in order by which they were clinically viable. In contrast, slide 8 of the presentation of the TDA's recommendations on 22 April 2020, did list the ventilators in order of clinical viability. The bottom 4 devices in Group 3 were EVA, Helix, OxVent and InVicto – i.e. the devices which were in fact removed from the Ventilator Challenge.
- 5.29. The devices retained, such as Dyson's Covent, were retained while the viability of volume production of the Smiths and Penlon devices (regarded as the best options at that stage) was established with greater certainty.³⁰⁰
- 5.30. As stated at the Cabinet Office's first corporate statement to Module 5 at paragraph 4.133, Dyson covered its own costs in the development of the ventilator for the Ventilator Challenge, which the firm estimated to be around £20m. The information which would have been required for the Ventilator Challenge to audit those costs

²⁹⁷ CG/315 - INQ000471010

²⁹⁸ By way of correction to paragraph 4.98 of the first Cabinet Office statement for Module 5, BlueSky, OxVent and InVicto were not stopped on 14 April 2020. The BlueSky project had already been stopped after the TDA on 10 April 2020 (see the submission sent to CDL and Lord Agnew on 12 April 2020 referred to at para. 4.97 of the Cabinet Office's first corporate statement to Module 5). The TDA on 14 April 2020 had recommended that the OxVent and the InVicto were stopped (CG/316 - INQ000478006). However, CDL and Lord Agnew decided on 16 April 2020 to continue to test all remaining ventilators, which included the OxVent and InVicto (CG/317 - INQ000477987). The OxVent and InVicto remained in the Ventilator Challenge until the decision to remove them by CDL and Lord Agnew on 24 April 2020. However, while continuing necessary spending for testing, the spend on raw materials and manufacturing for the OxVent had been paused after 10 April 2020 and the total spend on the InVicto, which was an alternative mask design, was limited to c.£284,000.

²⁹⁹ CG/318 - INQ000512994

³⁰⁰ CG/315 - INQ000471010; CG/319 - INQ000562374

before making any payment was not provided.

- 5.31. The rationale for Dyson's decision is a matter for the company. Dyson initially informed the press that it was going to bear its own costs on 24 April 2020.³⁰¹ At the time, Dyson was still part of the Ventilator Challenge.
- 5.32. The Government covered the costs of the design partner assigned to Dyson, TTP, in the same way that the costs of other such organisations were reimbursed. TTP had been selected as a design partner on 13 March 2020, before Dyson was selected as a manufacturer. If Dyson had not been selected, TTP would have worked with a different manufacturer. The payments to TTP amounted to £7.9m as justified by submissions on time spent and materials purchased.
- 5.33. Dyson stated that it was exploring the manufacture of its design in Singapore for sale outside of the UK. In response, it was explained that this would have involved a licence payment to HM government for IPR developed at government's cost during the Ventilator Challenge.³⁰² Ultimately, after preliminary discussions on a licence, Dyson decided on 14 May 2020 to close down its ventilator programme.³⁰³ Dyson later wrote to the Cabinet Office at the end of August 2020 seeking assistance in selling a stockpile of ventilator components which it had purchased but had no use for.³⁰⁴ In response, the Ventilator Challenge offered to assist Dyson with cost recovery, in line with the process and assistance provided to other manufacturers.³⁰⁵

Conflict of interests

- 5.34. Potential conflicts of interest were considered during the Ventilator Challenge and steps were taken to mitigate these. Some TDA members were associated with research bodies or had played an advisory role in some of the projects. For example, as Head of Department for Targeted Intervention, Division of Surgery and Interventional Science at University College London (UCL), Professor Ramani Moonesinghe agreed not to comment on a UCL project on CPAP (continuous positive airway pressure) to avoid any possible conflict of interest arising.³⁰⁶ Professor Moonesinghe's husband, Ed Penningtonridge in NHS E&I was involved in a project relating to gas supply for the Ventilator Challenge so it was agreed that Professor

³⁰¹ CG/320 - INQ000533277

³⁰² CG/321 - INQ000533254; CG/322 - INQ000533257

³⁰³ CG/323 - INQ000533275

³⁰⁴ CG/324 - INQ000533259

³⁰⁵ CG/325 - INQ000533260

³⁰⁶ CG/326 - INQ000498217

Moonesinghe would pass this onto another member of staff.³⁰⁷ Lt Col Andy Johnston, who attended the TDA on 22 April, was involved in the BlueSky project but given the project was no longer under consideration by the TDA, it was agreed that Lt Col Johnston's participation was acceptable.³⁰⁸

Changes to technical specifications

- 5.35. The impact of changes to the technical specifications for the ventilators made through the Ventilator Challenge were considered as part of the TDA process and suppliers were aware that the products had to meet the MHRA technical specification before any purchases were made. All ventilators procured through the Ventilator Challenge met the final MHRA technical specification. The Cabinet Office is not aware of any devices procured as part of the Ventilator Challenge which were subsequently considered unusable or unfit for purpose. The Penlon ventilators were subsequently upgraded to allow them to obtain a CE marking and thus ensure that they could be used outside of the emergency pandemic situation.

Contracting for ventilator production

- 5.36. As stated in the first Cabinet Office corporate statement to Module 5 at paragraph 4.116.1, two contracts were awarded to Penlon for ES02 ventilators.³⁰⁹ The values of these contracts stated in the CFNs reflect the outcomes of the costs plus agreed margin involved in the production of 15,000 ventilators. On a simple analysis based on the contract value, the first contract could be considered to be £6,154 per ventilator and the second contract £10,523 per ventilator. However, it is not valid to divide the number of ventilators produced by the value of these contracts to estimate a cost per ventilator. As explained above, these were 'cost plus' contracts. The costs assigned in the CFN to the first contract are the costs of supplying those units only. All other costs have been assigned to the second contract. These costs included some agreed updates to increase the functionality and utility of the Penlon ventilators, flexibility for additional ventilators to be ordered at a later date should that be required and the advance purchase (save the value that could be recovered) of critical components for additional ventilators initially ordered but then cancelled as the demand changed.

- 5.37. In any event, overall, the ~11,000 Penlon ventilators actually produced cost an

³⁰⁷ CG/327 - INQ000498252

³⁰⁸ CG/328 - INQ000498273

³⁰⁹ By way of correction to the first Cabinet Office corporate statement to Module 5, paragraph 4.116.2 the second contract was entered on 29 March 2020, when the confirmation of order was issued – 7 June 2020 was the Contract end date on the CFN

average of just under £11,000 each, including all development and other costs.³¹⁰

³¹⁰ CG/329 - INQ000513018, "Product Summary" sheet, Rows 3 and 4 ("ES-02" and "Additional ES-02s"), Column V "Current estimated total exposure inc VAT*".

6. SECTION 6: CROSS-CUTTING ISSUES

- 6.1. This section covers a range of cross-cutting issues about which the Inquiry has asked for further detail, including information on a number of topics covered in depth in the first Cabinet Office corporate statement to Module 5.

Preparedness

- 6.2. As stated in the Module 1 statement of Gareth Rhys Williams, the GCF as a whole was not instructed to prepare for public procurement in the specific event of a whole-system civil emergency or a pandemic prior to January 2020.
- 6.3. GCF managers were aware that there was a Pandemic Influenza Preparedness Programme (PIPP) stockpile, including supplies of PPE, which was owned and managed by Public Health England (PHE) on behalf of DHSC (which set the policy for the contents and size of the stockpile).
- 6.4. Before the pandemic, local health and social care providers bought PPE either directly from distributors or through Supply Chain Coordination Limited (SCCL). The responsibility for managing PPE supply and stockpiles was spread across multiple public bodies and private sector contractors.
- 6.5. As set out in Cabinet Office's first Module 5 corporate witness statement in paragraph 1.43, it is costly to install and maintain capacity sufficient for the 'surge' demand of a pandemic, while only using it at normal, much lower volumes outside of a pandemic. I understand that the Inquiry is interested in any examples to illustrate this point.
- 6.6. As in any risk management process, the costs and benefits of risk mitigation measures require assessment. In paragraph 5.12 of Gareth Rhys Williams' witness statement for Module 1, he explained the challenges in building UK sovereign capacity to cope with surges in demand.³¹¹ As an example, while building in-country manufacturing capacity for PPE avoids the problems caused by export controls or shipping difficulties, it does not necessarily solve the surge problem. If a factory needs to triple its output rapidly, it must have three times the capacity required to meet its normal demand. For some products that is not a problem, because no additional capital equipment is required (and it may be sufficient to add additional labour). However, some of the products needed to tackle COVID-19, such as the complex meltblown fabrics used in masks and gowns, are made on machines costing millions of pounds that are largely located in China. It is possible to run such facilities at, in this example, a third of their actual

³¹¹ CG/7 - INQ000182611

capacity, but this means that for all of the period outside of a surge, there will be a cost premium related to the maintenance cost and capital depreciation of the unused capacity. A threefold surge might be dealt with by adding extra production shifts, but in the pandemic we saw much greater increases in demand, with demand for some PPE and test components increasing twenty and more times. Moreover, if we do not want to run out of product at times of high surge, unless the supply chains are very flexible, we need to accept the cost, year on year, of considerably higher stockpiles of those key items than we have been prepared to pay for in the past, and we need to avoid running those stockpiles down to avoid handling costs without considering the effect of these rare events.

Attracting new suppliers

- 6.7. The Inquiry has asked for further information about what was done to attract new suppliers during the response to the pandemic. As explained in the first Cabinet Office corporate statement to Module 5, significant efforts were made by No.10 and others to attract potential new suppliers of ventilators, testing supplies and PPE into the market, such as by way of a series of “calls to arms”.
- 6.8. For the Ventilator Challenge, this was achieved through a combination of targeted “call to arms” and the wider call to businesses for help led by the then Department of Business, Energy and Industrial Strategy (BEIS).³¹² These “call to arms” were public so individuals, businesses and other stakeholder groups shared the message with others who provided offers through the various routes.
- 6.9. The statement explains that for PPE there were four routes to identify suppliers to purchase critical PPE. Route 1 identified PPE which could be procured from existing suppliers of PPE to SCCL. Route 2 was an “open source” approach used to seek offers of supply from mainly UK, and some international companies, called the “Coronavirus Support from Business Scheme”. By 30 March 2020, a portal was established on the gov.uk website for businesses to make an offer to supply goods or services, including PPE by filling in a webform. This was the primary route in which the Cabinet Office was involved. Route 3 were referrals made from Ministers, MPs and Senior Officials to a ‘High Priority Lane’. Route 4 was identifying factories and local intermediaries in China (“China Buy”) found by the FCO/DIT Joint Action Coordination Team (JACT) team in the Beijing embassy.
- 6.10. In addition, there were a very large number of unsolicited offers of support from

³¹² See paragraphs 4.25-4.36 of the first Cabinet Office corporate statement for Module 5

business for all sorts of services and goods including transportation and non-medical supplies. On 18 March 2020 No.10 exchanged messages with the private offices of Ministers and the GCCO in the Cabinet Office expressing concern at how this volume of offers might be processed.³¹³ Subsequently a dedicated mailbox was set up by the GCCO's Office (gcfccovid19enquiries@cabinetoffice.gov.uk) which reviewed such offers, including for tests, ventilators and PPE and forwarded them on as appropriate.

Working with the devolved administrations

- 6.11. As explained in the first Cabinet Office corporate statement for Module 5, during the response to the pandemic all public procurement activity in England, Wales and Northern Ireland was subject to the provisions of the 2015 Regulations (and separate, substantially equivalent regulations in Scotland – the Public Contracts Regulations (Scotland) (2015)).
- 6.12. In 2017, there was a series of bilateral concordats between the UK Government and each of the devolved administrations which in 2022 were replaced by a multilateral common framework on public procurement.³¹⁴ This allowed for consultation and exchange of information regarding: development of policies (including PPNs) and legislation; engagement between the Parties on World Trade Organisation Government Procurement Agreement (WTO GPA) business; and international agreements such as the EU-UK Trade and Cooperation Agreement. Work on the common framework started in 2017 and before it was finalised, Cabinet Office was essentially following the principles/ways of working set out in the drafts.
- 6.13. As set out in paragraph 4.113 of the Cabinet Office's first Module 5 corporate statement, DHSC operated a loan-based approach whereby ventilators were supplied to the devolved administrations and NHS trusts, and then returned following the pandemic. Ventilators from the Ventilator Challenge were fed into this distribution process. Members of the Ventilator Challenge engaged with Scottish Enterprise as part of sourcing and manufacturing parts for ventilators. On 9 April 2020, Lord Agnew met with Ivan McKee, Scotland's Minister for Trade, Investment and Innovation, to discuss the Ventilator Challenge. Documents related to this meeting have been exhibited and disclosed in the first statement.³¹⁵
- 6.14. Paragraph 4.229 of the Cabinet Office's first Module 5 corporate statement explains that the 'COVID-19 PPE Plan' published by DHSC on 10 April 2020 was produced by

³¹³ CG/330 - INQ000498212

³¹⁴ CG/331 - INQ000498330

³¹⁵ CG/332 - INQ000496706; CG/333 - INQ000496707

DHSC in consultation and cooperation with the devolved administrations. The PPE Plan describes a “weekly 4 nations PPE oversight board” engaging the devolved administrations in regular discussions of matters regarding PPE sourcing and distribution.³¹⁶ This met weekly with Jonathan Marron (DHSC) or Jenny Harries as chair.³¹⁷

- 6.15. At an operational level, some conversations on PPE buying took place with commercial teams in Northern Ireland, Wales and Scotland but these teams generally conducted separate procurement efforts. These separate procurement efforts are described in reports by Audit Scotland, Audit Wales and Northern Ireland Audit Office and published online. There was some overlap between these procurement efforts: for example, the PPE Buy Cell processed (and DHSC paid for) a gowns contract with the Clandeboye on behalf of NHS Wales, and the ‘UK Make’ team put in place a PPE manufacturing contract with Alpha Solway that was subsequently used by NHS Scotland.
- 6.16. Procurement of LFTs and PCRs was undertaken by Cabinet Office officials (as part of the commercial testing team) under the direction of DHSC. Officials regularly met with counterparts from Wales and Scotland to discuss the impact of policy decisions and share insights on supplies and buying decisions.

General procurement regulations and policy

- 6.17. This section will build upon topics covered in the first Cabinet Office statement to Module 5, and in particular Section C, regarding the regulations, policies and procedures which underpin the procurement of goods and services by central government departments.
- 6.18. Procurement is a devolved matter. As stated in paragraph 3.1 of the first Cabinet Office statement to Module 5, public procurement in the UK operates under a legal framework derived from EU law and retained in domestic law following the UK’s exit from the EU:
 - 6.18.1. For procurements in England, Wales and Northern Ireland, the legal framework is set out in three sets of regulations, which apply to different types of contracts: the 2015 Regulations; the Utilities Contracts Regulations 2016; and the Concession Contracts Regulations 2016.

³¹⁶ CG/140 - INQ000498257

³¹⁷ See for example CG/334 - INQ000498268

- 6.18.2. For procurements in Scotland, there are three similar sets of regulations: the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016; and the Concession Contracts (Scotland) Regulations 2016.
- 6.18.3. Defence and security procurements across the whole of the UK are subject to the Defence and Security Public Contracts Regulations 2011.
- 6.19. The underlying principles of procurement which all contracting authorities must comply with when conducting procurements under the 2015 Regulations are: non-discrimination; transparency; equal treatment; and proportionality.
- 6.20. The 2015 Regulations set out extensive rules in relation to the design and conduct of procurement processes (including the use of direct award procedures which are outlined in paragraphs 3.5–3.34 the first Cabinet Office statement to Module 5). These rules were supported by guidance, for example PPN 01/20 ‘Responding to COVID-19’ which advised public bodies how to use emergency contracting provisions in response to COVID-19 and overarching codes of conduct such as the Ministerial and Civil Service Codes which set expectations about the management of outside interests.
- 6.21. The Cabinet Office did not, during the relevant period, have a regulatory or ‘policing’ role in respect to compliance with the relevant procurement regulations and guidance. Individual contracting authorities were, and continue to be, responsible for the conduct of their own procurement process and for ensuring such processes are compliant with procurement law and policy. As described in the first corporate statement to Module 5 in paragraph 3.38, parties concerned about possible breaches of regulations (or other matters related to public contracts) were able to apply to the Public Procurement Review Service (PPRS) which would then investigate and publish findings on gov.uk. The PPRS is run by the Central Commercial Teams in the GCF. PPRS does not have any records of complaints directly relating to COVID-19 related procurement, for example relating to PPE or testing kits. The GIAA also undertook audits of 12 selected contracts (see paragraphs 6.13–6.23 of the first Cabinet Office corporate statement for Module 5). Additionally, there were process compliance roles within the PPE Buy Cell as exhibited in that statement.³¹⁸ For example, there was a compliance role within the Operations team and a separate PPE commercial process team led by Richard James.

³¹⁸ CG/335 - INQ000496710 - PPE Sourcing and Team structure

- 6.22. The Commercial Spend Control process applies six tests when reviewing contracts above the relevant threshold, which includes a test for compliance with policy.³¹⁹ This is to test overall alignment and adherence to central government commercial policies. A number of policies are assessed as part of the other five tests and so specific focus for the compliance with policy test is on policy relating to SMEs, prompt payment and social value. Where there were issues with compliance, letters were issued to the relevant minister or senior official in that department or to No.10. Examples of such letters are exhibited.³²⁰
- 6.23. From April 2020, actions taken by departments and their ALBs in accordance with PPN 01/20 and PPN 02/20 that resulted in either new contract awards with a value greater than £1 million or changes to contracts with a value of £1 million or more were recorded and reported to the Commercial Continuous Improvement Team (CCIT) in the Cabinet Office for audit and transparency purposes. There was an expectation on departments that all actions and changes made in relation to the application of PPN 01/20 and PPN 02/20, regardless of value, were logged locally and that Cabinet Office may at any time request this information covering all decisions made. The returns were reviewed by Cabinet Office commercial specialists and follow up conducted with departments when indicated. Regular reports were produced and shared with the Director of CCIT and the Director of Commercial Policy.³²¹

Public Sector Equality Duty

- 6.24. Central government departments and their agencies must ensure that they meet their legal obligations under the Equality Act 2010 including the Public Sector Equality Duty (PSED)
- 6.25. The PSED is contained within section 149 of the Equality Act 2010. It requires those public bodies which are subject to the duty, to have due regard to the three aims of the duty:
- 6.25.1. eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
 - 6.25.2. advance equality of opportunity between people who share a

³¹⁹ CG/336 - INQ000372759. Test 1 - Commercial Policies; Test 2 - Commercial Options & Maximising Competition; Test 3 - Markets & Suppliers; Test 4 - Risk allocation, pricing and value for money; Test 5 - Contract, Management and Delivery; and Test 6: Process and Planning.

³²⁰ CG/337 - INQ000533258; CG/338 - INQ000533261

³²¹ CG/339 - INQ000498278 shows the first iteration of the analysis.

protected characteristic and people who do not share it; and

6.25.3. foster good relations between people who share a protected characteristic and people who do not share it.

- 6.26. 'Procurement Policy Note – Public Procurement and the Public Sector Equality Duty' 01/13, published in 2013, reminds departments of their legal obligations under the PSED, when conducting their public procurement activities.
- 6.27. The PSED applies to the public bodies listed in Schedule 19 to the Equality Act 2010 (when they are exercising their functions, including procurement) and to other organisations when carrying out a public function.
- 6.28. The PPN advises departments that they should be aware that the PPN is not a comprehensive guide to the PSED, but a summary of how the duty can be taken into account when conducting public procurement.
- 6.29. Individual departments, as contracting authorities, are responsible for ensuring that they meet their legal obligations under PSED, when conducting their public procurement activities. The Cabinet Office did not, during the relevant period, have a regulatory or 'policing' role in respect to compliance.

Management of outside interests, financial due diligence, transparency and fraud prevention

- 6.30. The first Cabinet Office corporate statement to Module 5 explains the approach to addressing conflicts of interest under the Ministerial and Civil Service Codes. The process for managing any conflicts of interest is primarily a departmental matter.
- 6.31. The Inquiry asked about rules or policy documents applicable to departments. As set out in the Civil Service Management Code³²² (see especially the Introduction), under the Constitutional Reform and Governance Act 2010, the responsibility for running departments (which includes certain staff policies) is delegated from the Minister for the Civil Service (i.e. the Prime Minister) to those departments. Therefore while there remain overarching policies, guidance and legislation applicable to all departments (for example the Civil Service Code, or the Public Sector Equality Duty, explained elsewhere in this statement), all departments will have their own policies and guidance on matters concerning staff conduct and managing conflicts of interest.
- 6.32. The relevant guidance for assessing economic and financial standing in procurement actions that was in force for the pandemic procurement activities starting in March

³²² CG/340 - INQ000471036

2020 is contained in PPN 02/13 'Supplier Financial Risk Issues'³²³ and the Standard Selection Questionnaire defined in PPN 08/16³²⁴. This advice was complemented by the guidance on Supplier Assessment³²⁵ contained in the Outsourcing Playbook, the first edition of which was published in February 2019. The guidance in the Outsourcing Playbook however is intended for complex services or works contracts, and not the contracts for goods that made up the bulk of pandemic procurement.

- 6.33. Similar guidance on transparency in procurement was issued in 2017 as PPN 01/17 'Update to Transparency Principles'.³²⁶
- 6.34. The first Cabinet Office corporate witness statement to Module 5 (at paragraphs 3.25 and 3.26) referred to the Transparency Guidance which expanded on the requirements of the 2015 Regulations and included policy guidance on the publication of contract notices. The Transparency Guidance was withdrawn in June 2021 to simplify and ensure greater consistency between regulations and guidance.
- 6.35. The Inquiry has asked whether there is anything in the rules and guidance which prevents CANs and CFNs from being published immediately after the award of a contract.
- 6.36. At the time it applied, paragraph 9.1 of the Transparency Guidance stated that: "Where the standstill period applies, the contract should not be published before the standstill period expires" (original emphasis).³²⁷ Read in the context of the previous sentence that "it is advised that contracts are published with the award notice within 20 days following the end of the standstill period, where applicable", the Transparency Guidance was understood to advise that CANs should not be published before the expiry of the standstill period.
- 6.37. The standstill period is the period between the notification to the successful and unsuccessful tenderers of the contract award decision and when contract can be entered into, during which time, if a disappointed tenderer challenges the decision, an automatic suspension applies which prevents the contracting authority entering into the contract. There is no standstill period in the case of contracts awarded under regulation 32.

- 6.38. Regulation 108(5) of the Public Contracts Regulations 2015 also prohibits the

³²³ CG/341 - INQ000498195

³²⁴ CG/342 - INQ000498196

³²⁵ CG/343 - INQ000372753

³²⁶ CG/344 - INQ000498368

³²⁷ CG/345 - INQ000477302

publication of a CFN before a CAN has been published.

- 6.39. Otherwise, there was nothing in the regulations or guidance to prevent immediate publication of CANs or CFNs after a contract has been awarded. However, this is rarely, if ever, practicable.
- 6.40. CANs require substantial information. Per Regulation 50(2), CANs shall contain the information set out in Part D of Annex 5 to the Public Contracts Directive, namely:
- 6.40.1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
 - 6.40.2. Type of contracting authority and main activity exercised.
 - 6.40.3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
 - 6.40.4. CPV codes.
 - 6.40.5. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts.
 - 6.40.6. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.
 - 6.40.7. Type of award procedure; in the case of negotiated procedure without prior publication, justification.
 - 6.40.8. Where appropriate, indication whether: a) a framework agreement was involved, or b) a dynamic purchasing system was involved.
 - 6.40.9. Criteria referred to in Article 67 which were used for award of the contract or contracts. Where appropriate, indication whether the holding of an electronic auction was involved (in the event of open or restricted procedures or competitive procedures with negotiation).

- 6.40.10. Date of the conclusion of the contract(s) or of the framework agreement(s) following the decision to award or conclude it/them.
- 6.40.11. Number of tenders received with respect of each award, including:
- number of tenders received from economic operators which are small and medium enterprises,
 - number of tenders received from another Member State or from a third country,
 - number of tenders received electronically.
- 6.40.12. For each award, name, address including NUTS code, telephone, fax number, email address and internet address of the successful tenderer(s) including:
- information whether the successful tenderer is small and medium enterprise;
 - information whether the contract was awarded to a group of economic operators (joint venture, consortium or other).
- 6.40.13. Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the contract award or awards.
- 6.40.14. Where appropriate, for each award, value and proportion of contract likely to be subcontracted to third parties.
- 6.40.15. Information whether the contract is related to a project and /or programme financed by Union funds.
- 6.40.16. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
- 6.40.17. Date(s) and reference(s) of previous publications in the Official Journal of the European Union relevant to the contract(s) advertised in this notice.

- 6.40.18. Date of dispatch of the notice.
- 6.40.19. Any other relevant information.
- 6.41. It takes time and resources to compile, review and publish this information, including identifying if certain information should be withheld under Regulation 50(6) because its release:
- 6.41.1. would impede law enforcement or would otherwise be contrary to the public interest;
 - 6.41.2. would prejudice the legitimate commercial interests of a particular economic operator, whether public or private; or
 - 6.41.3. might prejudice fair competition between economic operators.
- 6.42. The information required in a CFN is less. Under Regulations 108(2) and 112(1), a CFN is required to include the name of the contractor, the date on which the contract was entered, the value of the contract and whether the contractor is a SME or VCSE. However, under the Transparency Guidance, the actual contract documents are to be published with a CFN. The contract documents must include, as a minimum: the specification, terms and conditions and associated schedules (Transparency Guidance, para. 5.1). A CFN must also be accompanied by proformas covering (a) estimated and actual procurement timescales, and (b) a statement of the value to be delivered from all approved consultancy contracts of £20,000 and above (Transparency Guidance, para. 5.2). It takes time and resources to obtain these documents and review and redact contract documents on the grounds permitted at section 7 of the Transparency Guidance, including information in relation to national security, commercial confidentiality and the protection of commercial data, or under Regulation 108(3) which is in the same terms as Regulation 50(6) set out above.
- 6.43. CANs and CFNs can be subject to close scrutiny by the press, pressure groups and others once published. It is therefore important, and justified, that there is close scrutiny in compiling, reviewing and publishing them to ensure they are comprehensive, accurate and comply with the Regulations and guidance.
- 6.44. Guidance on counter-fraud measures that was current in March 2020 was published by the Government Counter Fraud Function (GCFF) in 2019. This comprised the Functional Standard³²⁸, and professional standards and guidance on investigation³²⁹

³²⁸ CG/346 - INQ000497024

³²⁹ CG/347 - INQ000498325

and fraud risk assessment³³⁰. Further detail on the work of the GCFF has been provided through a corporate statement to Module 5 by Mark Cheeseman, Chief Executive of the PSFA, dated 27 November 2024.³³¹

Ministerial Code – outside interests and investigations

6.45. The Inquiry asked a number of questions about sections 3.97–3.103 of the first Cabinet Office corporate statement to Module 5, in which it was set out that:

6.45.1. “there are no records of concerns being raised in relation to ministerial declarations of interests and potential conflicts of interest with regards to Covid procurement that were determined to warrant a formal, Prime Minister-commissioned investigation, under the process set out in the Ministerial Code. Accordingly, no records are held of investigations under the Ministerial Code that were carried out internally in relation to ministerial declarations of interests and potential conflicts of interest with regards to Covid procurement during the relevant period.”³³²

6.46. It may be useful to further explain the process through which ministerial interests are declared and managed, and how the system of investigations under the Ministerial Code operates, including how an investigation might arise. These processes are set out in more detail in the Ministerial Code, Terms of Reference for the Independent Adviser on Ministers’ Interests,³³³ and Annual Report of the Independent Adviser on Ministers’ Interests.³³⁴

6.47. The Ministerial Code is issued by and in the name of the Prime Minister of the day. It is generally re-issued with each new Prime Minister, though updates can be made during a premiership. Prime Minister Boris Johnson published a Ministerial Code on 23 August 2019 and an update on 27 May 2022.

6.48. Under the Ministerial Code, ministers “must ensure that no conflict arises, or appears to arise, between their public duties and their private interests”, and Chapter 7 of the Ministerial Code sets out the process all ministers must follow in relation to the management of their private interests. The Code states that it is the personal responsibility of each minister to decide whether and what action is needed to avoid a

³³⁰ CG/348 - INQ000497007

³³¹ CG/9 - INQ000514029

³³² CG/7 - INQ000182611 - First Corporate Witness Statement of Gareth Rhys Williams, pg 62, para 3.97

³³³ CG/349 - INQ000471058

³³⁴ CG/350 - INQ000498335

conflict of interests, or the perception of a conflict of interests. Ministers are expected to complete a declarations of interests process when they are appointed and, once in post, when asked to do by the Independent Adviser on Ministers' Interest, in order to produce the List of Ministers' Interests.

6.49. The List of Ministers' Interests contains published information about those private interests that the Independent Adviser on Ministers' Interests judges to be relevant to ministers' role in government. It does not contain all the information declared by ministers, only that which is deemed relevant.

6.50. Irrespective of new appointments or other prompts to review their declarations, ministers are expected to proactively update declarations and seek fresh advice whenever needed, including where their personal circumstances or their ministerial responsibilities change.

6.51. Records of ministerial declarations of interest are therefore held in the following areas:

6.51.1. The Cabinet Office – which retains completed ministerial declaration of interests forms and any ad hoc declarations passed on by departments;

6.51.2. Individual departments – who retain completed ministerial declaration of interests forms and ad hoc declarations made by ministers to their officials, outside the Cabinet Office-led process. Not all of these declarations would be expected to be sent to the Cabinet Office.

6.52. The Cabinet Office's first corporate statement to Module 5 set out the process by which investigations under the Ministerial Code take place at paragraph 3.98, which referred to paragraph 1.4 of the 2019 Ministerial Code. This sets out that it is not the role of the Cabinet Secretary or other officials to enforce the Code. If there is an allegation about a breach of the Code, and the Prime Minister, having consulted the Cabinet Secretary, judges that it warrants further investigation, the Prime Minister may ask the Cabinet Office to investigate the facts of the case and/or refer the matter to the Independent Adviser on Ministers' interests.

6.53. The Prime Minister of the day is the ultimate arbiter of the Code. This is set out at paragraph 1.6 of the 2019 Ministerial Code:

6.53.1. "Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their

actions and conduct to Parliament and the public. However, Ministers only remain in office for so long as they retain the confidence of the Prime Minister. He is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of those standards.”

- 6.54. In practice this means that investigations are generally instigated in response to an allegation from – or a concern raised by – a number of sources, including a parliamentarian, the media, an individual member of the public or a department (e.g. from a Permanent Secretary who has a concern, or has been made aware of a concern). As per the system set out above, there is no ‘compliance function’ for ministers’ interests that is used for officials to identify areas for further investigation under the Ministerial Code in relation to pandemic procurement or otherwise. No records of Ministerial Code investigations into ministerial declarations of interest relating to COVID-19 procurement were found for the period of 1 January 2020–28 June 2022.
- 6.55. The Inquiry has also asked about the greater obligations on authorities in respect of conflicts of interest under the Procurement Act 2023 which are set out in Section G of the first Cabinet Office corporate statement to Module 5, at paragraphs 7.28 to 7.35. The statutory duties in sections 81, 82 and 83 require contracting authorities to identify and keep under review any conflict of interest or potential conflict of interest in relation to a covered procurement, including where a Minister acting in relation to a procurement has a conflict of interest, and to carry out a conflicts assessment including details of such a conflict and the steps taken to mitigate it. These duties will apply to any involvement by a Minister in relation to a procurement before an invitation to tender or other document formally commencing the procurement is issued (as well as afterwards).
- 6.56. Ministers would also need to comply with the Ministerial Code, which includes obligations on Ministers to “ensure that no conflict arises, or appears to arise, between their public duties and their private interests.” and to complete a declaration of interests process.
- 6.57. Finally, as stated in the first Cabinet Office corporate statement to Module 5 at paragraph 3.92, in July 2022, the Cabinet Office published guidance on ‘Principles for Ministerial involvement in commercial activity and the contracting process’. This guidance, which remains current, includes a specific section on advice on Ministerial involvement before procurement starts which states as follows:

- 6.57.1. “Ministers can engage with current or future suppliers to the Government outside of a formal procurement process, i.e. before the opportunity is advertised, as this can be useful in growing and shaping markets, as well as gaining intelligence through a better understanding of market issues. Ministers should approach this in the same way as any engagement with the private sector. They should ensure an appropriate record of the discussion is made; allow equal opportunity for access for all, including SMEs, and seek to ensure suppliers’ intellectual property is not compromised. Ministers should be aware of the priorities set out in the National Procurement Policy Statement, which encourages Departments to widen their supply base to ensure resilience.
- 6.57.2. Departments should ensure that Ministers are pre-briefed on Government’s previous commercial dealings with current or potential suppliers before such meetings, including performance on current contracts. Commercial teams have access to market intelligence on larger companies, and detailed knowledge of those who are critical to Government. Best practice is for Ministers to include a senior member of the Department’s Commercial Directorate in such meetings to ensure that a level playing field is maintained and that suppliers are not over-selling their capabilities or performance.
- 6.57.3. Departmental officials should make Ministers aware of the upcoming programme of tendering activity (the ‘commercial pipeline’) through an oversight committee or similar so that they can get involved as they see fit. Ministers should be able to expect officials to provide swift advice to allow flexible decision making.
- 6.57.4. When meeting suppliers, Ministers should take care not to discuss matters related to current or potential procurement intentions of the Department that are not in the public domain or otherwise available to other suppliers. Ministers should also exercise caution in accepting pro bono offers from suppliers as these have the potential to distort future competitions, usually at the expense of SMEs who cannot afford to make such an offer while larger competitors can. There are circumstances where pro bono offers may work, such as a trial of off-the-shelf software, but generally commercial and legal advice

should be sought before entering into such arrangements.

6.57.5. Ministers who are MPs also represent their constituents. If a Minister wishes to introduce a local supplier to Government, then a declaration of interest can be recorded and the Minister can excuse themselves from future decisions related to that supplier, should they be involved in a future procurement."

6.58. The 2022 guidance replaced guidance first issued by the Cabinet Office in 2012.³³⁵

Checking for Conflicts of Interest

6.59. It may be helpful to the Inquiry to be aware of 'normal' practice in central government for checking conflicts of interest during procurement as experienced prior to the pandemic, and given that local differences may occur as departments define their own procedures.

6.60. The point in a procurement which is most sensitive to conflicts of interest is an evaluation, where a selection decision is being made (either a down-selection or an award of contract). This decision is rarely taken by an individual, and in most large procurements an evaluation committee is convened, including personnel who have evaluated the technical, financial and commercial aspects of the bids. Ministers would not commonly be involved in an evaluation committee. Any conflicts that the evaluators might have with individual bidders should have been declared to the convener of that committee, and a conflicted evaluator would normally be recused from the evaluation. This meets the test in Regulation 24 of the 2015 Regulations, which requires that situations where "relevant staff members have, directly or indirectly, [an] interest which might be perceived to compromise their impartiality and independence" be addressed. The convener would not examine records of the interests of individual staff members or of ministers in the department, but rely on self declaration.

6.61. As described at paragraph 6.38, when a minister is appointed to a department they complete a declaration of interests which is reviewed by their permanent secretary and appropriate measures are put in place to manage relevant outside interests. This may include agreeing measures in relation to procurement decisions made by the department and/or the minister.

6.62. If, during their time in office, the minister became aware of a private interest in a bidding company that had not existed or been evident at the time of their appointment

³³⁵ CG/351 - INQ000471040

(such as a family or friend connection to the company that was new), the minister would be expected, as discussed in 6.44 above, to make that interest known to the permanent secretary. Ministers have an ongoing duty to ensure that no conflicts of interest arise in relation to their government duties. In the unlikely event of a minister being involved in a selection decision, the permanent secretary would advise the minister to take appropriate action to remove conflicts of interest, such as recusing themselves from the decision. In the case of the PPE procurements, no ministers (including DHSC ministers) had a direct role in these selection decisions, although, as is normal practice, the contracts were signed on behalf of the Secretary of State.

- 6.63. It is also worth noting that in the case of the approaches made to ministers during the pandemic that related to PPE procurement, in many instances these would have been diverted directly by ministers' private office staff to the PPE Buy Cell without the minister being aware of their existence or the individuals or companies involved.

Numbers of declarations

- 6.64. The Inquiry has also asked about the total number of declarations and the types of declarations made during the period.
- 6.65. In the period covered by the Inquiry's scope (1 January 2020–28 June 2022), there were approximately 180 ministerial appointments. A significant proportion of these appointments were due to 'reshuffles', i.e. the appointee was already a government minister, moving to a new role. Four Lists of Ministers' Interests were also published during this period (in July 2020, May 2021, November 2021 and May 2022). Given ministers are asked to complete the declarations of interest process upon every new appointment, and asked to confirm those declarations before publication of a new list, the Cabinet Office estimates that there were therefore around 180 ministerial declarations of interest during this period (or confirmation of no changes to their previous declaration). However, as set out above, it is not possible for the Cabinet Office to calculate the number of ad hoc declarations made to departmental officials during this period.
- 6.66. Regarding the number of interests declared in relation to PPE/healthcare contracts specifically, it is not possible for the Cabinet Office to give a definitive answer to this question. As set out above, the List of Ministers' Interests does not capture every interest declared by ministers and ministers are expected to declare relevant interests on an ad hoc basis if their relevance emerges outside of the formal List process. This is likely to be particularly relevant during the pandemic period, where ministers may

have received contact from individuals or organisations on a daily basis. While some of these individuals or organisations may have had some form of prior relationship with or connection to the Minister, the Minister would not necessarily have anticipated when undertaking the declaration of interest process, that these contacts would approach their department in the context of procurement during the pandemic. In such situations, if the Minister thought that a conflict of interest could arise (for example if their ministerial role may involve decisions relevant to the referral), then they would be expected to declare this to officials in their department.

The Civil Service Code

- 6.67. The Civil Service Code forms part of the terms and conditions of every civil servant. It outlines the core values of the Civil Service: honesty, integrity, impartiality and objectivity, and describes the standards of behaviour expected of individual civil servants against each of these four values.
- 6.68. If a civil servant believes they are being required to act in a way which conflicts with the Civil Service Code, or becomes aware of actions of another civil servant which conflict with the Code, they should:
- 6.68.1. talk to their line manager or someone in their line management chain;
 - 6.68.2. if this is difficult, talk to their organisation's Nominated Officer, who can advise about the Code;
 - 6.68.3. give the department or agency time to consider the complaint.
- 6.69. If not satisfied with the response, the civil servant may refer the complaint to the Civil Service Commission.
- 6.70. A civil servant may want to raise their concern with the department or agency informally at first, but must normally raise it formally under the Code before referring the complaint to the Commission.
- 6.71. According to GCO HR records, there were no cases of fraud or breaches of the Civil Service Code that were investigated within the GCO during the pandemic that related to contracts awarded as part of the response to the pandemic.³³⁶

³³⁶ This only includes cases which were reported to HR. The GCO would expect in the majority of cases that managers would report issues to HR. The GCO includes all central government commercial staff at Grade 7 (G7, 'Commercial Leads') and above (see paragraphs 2.13-2.20 of Gareth Rhys Williams' first corporate statement for more information).

Other commercial guidance

- 6.72. The Procurement Act 2023 (2023 Act), which will reform the existing procurement rules, received Royal Assent in October 2023 and secondary legislation (The Procurement Regulations 2024 (the “2024 Regulations”) which add further detail to the new regime, for example prescribing content of transparency notices, were made on 22 May 2024. The existing legislation will apply until the new regime (both the 2023 Act and the 2024 Regulations) goes live and will also continue to apply to procurements commenced and contracts awarded under the previous rules.
- 6.73. Guidance which was in place at the time of the pandemic or was issued during the pandemic is explained in more detail in the first Cabinet Office corporate statement,³³⁷ including guidance on transparency,³³⁸ conflicts of interest³³⁹ and fraud³⁴⁰. Many departments (including DHSC) will have local guidance and policies which are relevant to the departmental context, for example on raising purchase orders.³⁴¹ The GCO ran 50 virtual workshops across 8 subjects. These 8 subjects covered were Contract Management Surgery: Ask our Experts; Contract Management Surgery: Risk Management: On-boarding suppliers or contracts at pace; Contract Management: the Fundamentals for a Crisis Situation; Contract Management: Using relationships and contracts to address subcontractor and market concerns; Contract Mobilisation: the Essentials in a Crisis; Contract Scenario Planning; Emerging from the Crisis: the Contract Manager's Guide to Planning Ahead; and Trade-offs when Varying Contracts. There were c. 3,200 attendees across the public sector, including representatives of c.35 local authorities across the UK. From these workshops, 13 support ‘crib sheets’ with guidance were developed.³⁴²
- 6.74. The first Cabinet Office corporate statement to Module 5 provides information on due diligence processes for each area of procurement. In terms of general guidance available to contracting authorities, this includes PPN 8/16³⁴³ which is a Standard Selection Questionnaire, and PPN 02/13³⁴⁴ on supplier financial risk as discussed in paragraph 6.32 above.

³³⁷ Paragraph 2.11.5 explains the use of playbooks; paragraphs 2.11.3, 3.24, 3.39, 3.41-3.49 and 3.82 provide an overview of the relevant PPNs issued or in place at the time; and paragraph 3.50 provides other forms of guidance issued during the pandemic on procurement.

³³⁸ See paragraphs 3.24 and 3.27.

³³⁹ See para 3.79, 3.82, 3.83 and 3.65.

³⁴⁰ See Section E.

³⁴¹ CG/352 - INQ000498197

³⁴² For example, CG/353 - INQ000533268

³⁴³ CG/342 - INQ000498196

³⁴⁴ CG/341 - INQ000498195

- 6.75. The Ministerial and Civil Service codes do not deal specifically with due diligence when awarding contracts, although individuals would be bound by the general principles of integrity and objectivity.
- 6.76. Due diligence activity was intended in part to assess the economic and financial standing of companies offering goods (or services) to the government, and thus assess the degree of financial and performance risk that the government would be exposed to if it placed a contract with that supplier. This includes risks flowing from insolvency and the risk of not being able to recover funds from the supplier in the event of non-delivery of goods, particularly if payments had already been made to the supplier.

Guidance, training, support to the DHSC, NHS, local authorities on use of direct awards

- 6.77. As explained above in paragraph 6.20, the 2015 Regulations set out extensive rules in relation to the design and conduct of procurement processes. These rules apply to public contracting authorities including DHSC, NHS and local authorities.
- 6.78. On 18 March 2020, the Cabinet Office published PPN 01/20 'Responding to COVID-19' advising public bodies on how to use emergency contracting provisions, such as direct award due to reasons of extreme urgency, in response to COVID-19. Again, this guidance applied to DHSC, NHS and local authorities. In preparing this guidance, there were no discussions about relaxing or suspending regulations and/or bringing in new regulations.
- 6.79. Given the need for extreme urgency in responding to COVID-19, while special guidance was prepared and issued as described above, there was little or no time to develop specific guidance and training for every possible scenario that could be encountered in the course of the pandemic, and commercial staff in DHSC, NHS and local authorities would have been unlikely to have had time to receive training on potential scenarios given the extraordinary pressures they were facing at that time.
- 6.80. I have set out comments below on the key areas of interest to the Inquiry relating to risk allocation, pricing and "should cost" modelling, financial due diligence and contract management in the context of increased use of direct awards:
- 6.80.1. The allocation and management of risk is central to all commercial contracts and is one of the core commercial principles informing the approach to contracting with third parties. Risk allocation in the context of direct awards is not significantly different to that undertaken

when letting contracts using other procedures, and there is no need for a 'special' contract for a supplier agreement following a direct award. As explained in the first Cabinet Office corporate statement for Module 5 at paragraph 3.39, the Cabinet Office has an expectation that contracting authorities will make appropriate choices of contracting model but did not specify standard terms that needed to be used by departments during COVID-19.

- 6.80.2. With regard to pricing and "should cost" modelling, there is no general mode of price setting or assessing value for money that would apply to all the situations that presented during COVID-19 and were addressed using direct awards. For example, a very different approach to pricing and "should cost" modelling was taken in the Ventilator Challenge to that taken in purchasing PPE. These situations are themselves very different to the complex services and works contracts described in the Outsourcing Playbook.³⁴⁵
- 6.80.3. Financial due diligence processes do not vary depending on the contracting route, whether by direct award or otherwise. During the pandemic, the processes undertaken to perform due diligence checks and assess the financial standing of suppliers depended on other factors such as the nature of and volume of suppliers and their role in the delivery of products or services.
- 6.80.4. General contract management training is available from GCF and was available at the time of the COVID-19 pandemic, negating the need for additional training or support to be provided.

Guidance issued by the Crown Commercial Service

- 6.81. I understand that the Inquiry is also interested in any guidance or policy documents provided by the Crown Commercial Service (CCS) in relation to the procurement of PPE, ventilators and tests during the pandemic. The role of the CCS is covered in Section 2 of this statement and in further detail in the corporate statement to Module 1 of the Inquiry by Simon Tse. The CCS did not issue guidance or policy documents to the DHSC or any other departments or organisations in relation to PPE, ventilators, PCR tests or LFTs. The responsibility for issuing PPNs which clarify or provide further instruction on procurement legislation and help to ensure specific risks to effective

³⁴⁵ CG/354 - INQ000372754

public procurement are addressed lies within the GCF commercial policy team. PPNs are prepared by the GCF commercial policy team and then published by CCS. This is because, after the move by the commercial policy team in 2018 from CCS to the GCF (as explained in paragraph 2.46), the CCS continues to be paid by the Cabinet Office to retain their help desk support for queries as there was no equivalent function in the Cabinet Office.

- 6.82. As is outlined in Section 2 of this statement, procurement of PPE and medical equipment is outside of the remit of the CCS (CCS is focussed on 'common goods and services', where 'common' means things bought by multiple departments, such as energy or buildings) and during the pandemic CCS did not involve itself directly in procuring PPE for use in clinical settings.
- 6.83. As such, CCS supported a common view within the GCF that public procurement and allocation of PPE should be led by DHSC and SCCL. This strategy helped to ensure that the PPE stock already accumulated by the start of the pandemic and engagement with a complex and globally constrained supply chain could be managed and controlled as effectively as possible; and that demand for PPE within public sector organisations would be met in accordance with an order of prioritisation determined by DHSC and the NHS and in line with their expert knowledge of the requirement and specification.
- 6.84. As a result, rather than risk disrupting the health sector's efforts to secure PPE supplies, CCS did not seek to establish new alternative commercial routes for health or indeed other public sector organisations to access PPE, but rather responded by providing support to central DHSC and NHS procurement efforts, making available those of its staff with knowledge of protective equipment specifications and the supply chain in non-medical / non-clinical categories such as the construction sector.
- 6.85. CCS also sought to help understand and manage demand for PPE from the public sector. Because of CCS's engagement with the whole public sector on procurement of common goods and services, CCS was contacted by a range of public sector organisations at different points during the pandemic to help them access PPE. CCS sought to help DHSC gauge the level of demand emerging from public sector organisations outside the health sector on the one hand and on the other to communicate to those organisations the importance of following guidance when it became available on what type of protective equipment was advised in non-clinical contexts, prioritising health sector demand and not disrupting or competing in the

same supply chain as the health procurement effort in light of the ongoing global supply constraints.

- 6.86. Similarly, CCS did not have a direct role in benchmarking prices for PPE. As explained in the first Cabinet Office corporate statement to Module 5 (paragraph 4.450), the Closing Team in the PPE Buy Cell negotiated price, payment terms, delivery and commercial terms with PPE vendors. As data became available, the PPE Buy Cell established a Pricing Benchmark for each product family³⁴⁶.

Spend Controls

- 6.87. As set out in the Cabinet Office's first Module 5 corporate statement, Cabinet Office has operated a Commercial Spend Control using spending powers delegated from HMT since 2011. Under these powers, each new contract over a threshold value (in 2020, £10m) was triaged by a Cabinet Office official working within the Commercial Continuous Improvement Team (CCIT). During the period of the pandemic, the aim of this control was not to assess whether an item of proposed spend was justified, that being the responsibility of the submitting department to decide, but to advise Ministers and departmental and HMT colleagues whether the proposed procurement or contract followed best practice, and if not, to suggest improvements that would better underpin value for money. Submissions that were assessed (by the submitting department and the CCIT agent) as being novel, contentious, or repercussive or otherwise raising concerns were examined in more detail. For the most significant contracts (i.e. typically for contracts with a value of above £100m and/or particularly novel, contentious or repercussive), that official produced advice for a Cabinet Office minister on whether the commercial approach to the contract complied with standards and commercial best practice.
- 6.88. The Inquiry asked me to explain what is meant by novel, contentious or repercussive. It is for the Accounting Officer of the contracting authority to judge whether a transaction is novel, contentious or repercussive as defined in HMT's Managing Public Money.³⁴⁷ For the purposes of the commercial spend controls panel, contentious cases are defined as novel, complex or otherwise significant and assessed as to whether any of the following criteria are met:³⁴⁸

- 6.88.1. Programme is above Delegated Authority Limit;

³⁴⁶ CG/355 - INQ000496719 (May); CG/356 - INQ000496734 (June)

³⁴⁷ Section 2.3.4 in October 2019 issue

³⁴⁸ CG/357 - INQ000477936 - 2020 guidance; CG/358 - INQ000498326 - current guidance

- 6.88.2. First generation outsource;
 - 6.88.3. Significant transformation of scope;
 - 6.88.4. Follow a failed procurement;
 - 6.88.5. Are likely to attract a high level of media attention (reputational risk);
or
 - 6.88.6. Is retrospective.
- 6.89. Or more than three of the following are met:
- 6.89.1. Direct Award or unplanned extension;
 - 6.89.2. Market with limited competition and is above Delegated Authority Limit;
 - 6.89.3. The number of bidders is less than three at Full Business Case stage;
 - 6.89.4. Potential to award against low cost bid;³⁴⁹ or
 - 6.89.5. Likely to be subject to legal challenge.
- 6.90. Further guidance on the advice provided to ministers and standards to assess the cases can be found in the template submission exhibited.³⁵⁰
- 6.91. As above, spend controls are delegated from HMT and are subject to discussions between HMT and other government departments. The spending controls team within the Cabinet Office had not been involved in spend controls over PPE for healthcare purposes prior to the pandemic because such spend was organised through SCCL. It was for other government departments to submit deals for spending control and the spend control team in the Cabinet Office did not receive any submissions relating to PPE in March or April 2020. As set out in the Cabinet Office's first corporate statement to Module 5 at paragraph 1.47, it was stated on 23 April 2020 that Cabinet Office spend controls would not be applied to PPE. This followed discussions throughout April 2020 between the Cabinet Office spend controls team, DHSC and HMT about the appropriate process that should be adopted in a situation where PPE deals needed to be concluded very swiftly (sometimes in hours) and the spend control process would take significantly longer. Further, it was recognised that the assistance that the process

³⁴⁹ Suspected 'lowballing' or bidding below the cost of delivery

³⁵⁰ CG/336 - INQ000372759

could give was limited compared to the difficulties that it would cause by introducing delay. The assistance was limited since the Cabinet Office spend controls team had no specific expertise in PPE, the role of the Spend Control process was not to say what to buy but to advise on the deal, and the key factors in each deal were factors such as the price and the need for the product (which could only be determined by those involved in the deal). It should also be noted that the Spend Control teams always had discretion as to whether to submit deals to a spend control panel for ministers (which normally sat fortnightly), to approve spend individually or in bulk on a desktop basis, or to approve it from the other department's plan. By 20 April 2020 HMT had agreed conditions with DHSC for delegated spend without the need for specific spend controls, in discussing FCO procurement,³⁵¹ and these were mirrored in the letter explaining the increased delegated spend envelope sent by CST to the Secretary of State for Health and Social Care and CDL on 24 April 2020.³⁵² It was these conditions which were further approved by Lord Agnew in May 2020. The existence of the Clearance Board, as set up from 5 May 2020, may have provided reassurance to the Cabinet Office spend control team that the deals were subjected to additional scrutiny, including from Cabinet Office commercial specialists (as did the presence of CCT staff in the Buy Cell), though the Clearance Board was under DHSC Governance and was not a formal CO spend control process.

Spending controls breaches

- 6.92. During the pandemic, the Cabinet Office holds records of one commercial spend controls case for PPE and Test and Trace international logistics which was not approved due to it being retrospective.³⁵³ The Cabinet Office was also aware of some other in-scope PPE logistics contracts which were not submitted for approval.³⁵⁴ It is for the contracting authority, which in this case was DHSC, to report any irregular spend in line with the Government's guidance.³⁵⁵
- 6.93. We are aware that the DHSC reported irregular spend for contracts during the pandemic in the department's published annual report and accounts 2020–21.³⁵⁶ Paragraph 648 of this report details the regularity opinion of the Department's auditors, and includes spend on some PPE supply contracts, PPE logistics and consultancy on

³⁵¹ CG/359 - INQ000533251

³⁵² CG/360 - INQ000512995

³⁵³ CG/361 - INQ000468576

³⁵⁴ CG/362 - INQ000513345 - See paragraph 63 and Annex C. Full records and information on irregular spend would be held by individual contracting authorities.

³⁵⁵ CG/363 - INQ000471068

³⁵⁶ CG/237 - INQ000498331

Test and Trace. It is possible that the transaction of some or all of the PPE supply contracts was supported by Cabinet Office staff, but it would have been DHSC's responsibility to check with HMT whether the spend would have been deemed regular.

The Procurement Act 2023 and the role of the Procurement Review Unit

- 6.94. Section G of the first Cabinet Office corporate statement to Module 5 provides an overview of the Procurement Act 2023 (the 2023 Act). This section of the statement should therefore be read alongside that previous statement. The 2023 Act includes expanded and new powers to investigate relevant contracting authorities for compliance with the 2023 Act (Part 10 of the 2023 Act) and to investigate suppliers and maintain a published debarment list (sections 59 to 66 of the 2023 Act).
- 6.95. A new Procurement Review Unit (PRU) will have responsibility for managing these new regimes (except debarment on national security grounds) and for advising and making recommendations to Ministers. The aims of the PRU, which is based in the GCF in Cabinet Office, are to:
- 6.95.1. ensure compliance with the new procurement legislation, including managing investigations into non-compliance by relevant contracting authorities;
 - 6.95.2. improve the capability and practices of contracting authorities for the benefit of everyone involved in public procurement;
 - 6.95.3. protect public procurement from suppliers who pose risks, by managing investigations into suppliers against the exclusion grounds included in the 2023 Act, and making recommendations to the Minister that may result in the supplier being added to the debarment list.
- 6.96. The PRU is staffed by members of the GCF and personnel involved in investigation work will receive appropriate training. PRU aims to work with government departments and/or agencies to ensure required specialist expertise is available to it, as required, including in subjects such as tax offences and counter-fraud.

Section 42 Awards

- 6.97. As stated at paragraph 7.18 of the first Cabinet Office corporate statement to Module 5, section 44 of the Procurement Act 2023 requires a transparency notice to be issued by a contracting authority before it makes any direct award. Section 44(1) states:

“Before awarding a contract under section 41 or 43 a contracting authority must publish a transparency notice.”

- 6.98. Section 44 does not refer to section 42. However, a direct award under regulations made under section 42 is an award made under section 41 and is therefore subject to section 44 and the requirement for a transparency notice. Section 44 does not refer to section 42 because section 42 is a regulation making power, rather than the basis on which awards may be made. Section 42 itself is clear that contracts made under the regulations would be “awarded under section 41 as if a direct award justification applies”. Thus, section 51(3)(b) states that they are contracts “awarded under section 41 by reference to regulations under section 42”.
- 6.99. There is no standstill period following a section 42 award, or a direct award on the basis of extreme and unavoidable urgency. This reflects the need to move quickly. The reason for a standstill is normally to permit an unsuccessful bidder to challenge a procurement before a contract is entered, so that a procurement can be re-run or a contract awarded to a different bidder. There is still a statutory obligation to provide a contract award notice which could be enforced.

National Security provisions under the Act and the National Security Unit for Procurement

- 6.100. The exclusion and debarment powers in the 2023 Act include national security grounds, which will strengthen the Government's ability to address national security threats in public procurement and public contracts. The National Security Unit for Procurement (NSUP) will have responsibility for managing the national security exclusion and debarment regimes and making recommendations to Ministers. NSUP sits in the Government Security Group in the Cabinet Office.
- 6.101. NSUP is staffed by national security professionals and deals solely with national security grounds for exclusion and debarment provisions in the 2023 Act. NSUP will draw on commercial expertise to facilitate the assessment of suppliers and advice to ministers.
- 6.102. Work has been underway since 2021 to establish the PRU and NSUP and both units will launch once the 2023 Act comes into force, when the new powers are commenced.

Lessons Learned

- 6.103. The Inquiry has asked about the “lessons learned” reviews carried out regarding

pandemic procurement, whether recommendations have been implemented and whether the reviews revealed good practice in the procurement of the healthcare goods and services in the scope of Module 5. Several such exercises were carried out as described in the Cabinet Office's first corporate statement to Module 5, but the most comprehensive was Boardman 2, which is described in detail in the statement from paragraph 6.37 onwards. The implementation of Boardman's recommendations is stated in paragraph 6.47 onwards of the Cabinet Office's first corporate statement to Module 5. This reported that as of March 2024, all recommendations except two had been implemented and were being tracked until complete. This includes one action for DHSC relating to recommendation 6, which is due to be delivered by Quarter 2 2024/25, and one action for Civil Service HR relating to recommendation 15.

6.104. Boardman noted several examples of good practice in the management of procurement during the pandemic. These included:

- 6.104.1. The use of accreditation of Commercial Professionals to give confidence in the competence of staff to undertake the roles within the buying teams. Boardman suggested that the scheme be extended to the NHS as well (implemented in March 2023);
- 6.104.2. The use of data modelling in some instances, for example the wind-down of the Ventilator Challenge programme when it became clear that demand was much lower than had been expected at the beginning of the pandemic;
- 6.104.3. The support for innovation, demonstrated within the Ventilator Challenge, the exploration and deployment of new testing technologies and support for the development of UK-based LFTs. Boardman also cites the Vaccine programme; and
- 6.104.4. The adaptability of spend controls, retaining rigour in the scrutiny of large contracts in Test and Trace while increasing the speed of decision-making. Boardman notes the deployment of a controls team manager to the Investment Board of Test and Trace.
- 6.104.5. The most prominent successes pointed out by Boardman were the procurement outcomes; 15,000 ventilators built, 30 billion items of PPE acquired and capacity developed for 750,000 PCR tests daily.

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 in its truth.

Signed:

Personal Data

Dated: 20 December 2024