

Wednesday, 12 March 2025

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2 (10.00 am)  
3 **LADY HALLETT:** Mr Sharma.  
4 **MR SHARMA:** My Lady, the first witness is Tim Jarvis.  
5 **MR TIM JARVIS (affirmed)**  
6 **Questions from COUNSEL TO THE INQUIRY**  
7 **MR SHARMA:** Mr Jarvis, you have provided a witness statement  
8 to the Inquiry. The reference for it is INQ000527570.  
9 Would you be able to confirm, please, that that  
10 statement is true to the best of your knowledge and  
11 belief.  
12 **A.** Yes.  
13 **Q.** You have also, in preparing your evidence, considered  
14 the witness statement of Sarah Munby on behalf of the  
15 Department for Business, Energy and Industrial Strategy  
16 which we'll come on to. And that is INQ000517443.  
17 Mr Jarvis, I wonder if I could please begin with  
18 your background and experience. From 2018 until  
19 April of 2020, you were the Director of Consumer and  
20 Competition Policy at BEIS; is that right?  
21 **A.** That's correct, yes.  
22 **Q.** And on 27 April 2020 until September 2020, you became  
23 a director in PPE Make, also at BEIS, the Department for  
24 Business, Energy and Industrial Strategy?  
25 **A.** That's correct.

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1 of that call to arms, it was said that the government  
2 would welcome support from other manufacturers who  
3 wished to offer their production facilities for the  
4 manufacture of PPE in the UK?  
5 **A.** Yes.  
6 **Q.** Could we have up, please, INQ000513154.  
7 You were appointed to the PPE Make Programme on  
8 around 27 or 28 April of 2020. This document predates  
9 that by a week or so, but could we turn, please, to  
10 page 2 of this document, just to provide some context  
11 about the reasons for why the Make team was established  
12 and the kinds of problems it was established to solve.  
13 Could we zoom in, please, to number 3, what we have  
14 found. Here it says:  
15 "The Make team has a significant role to play in  
16 providing PPE for the next 90 days. However it is  
17 probably underpowered in number and capability of  
18 people. It is not sufficiently connected to the pillar  
19 to give it the demand signal and escalate issues.  
20 [Although] Some manufacturing has been brought online  
21 ... This not at the pace [which is] needed to meet  
22 demand."  
23 If we could zoom out from that. And then into  
24 number 4, please.  
25 And the recommendation which is made, again at this

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1 **Q.** And since then, or forgive me currently, you are the  
2 Director General at OFGEM, the energy regulator; is that  
3 right?  
4 **A.** That's right.  
5 **Q.** Mr Jarvis, could I start, please, with the UK Make  
6 Programme. Would you be able to assist the Inquiry with  
7 what it was and why it was set up?  
8 **A.** Yes, so the programme was set up in response to the  
9 challenges that we were obviously seeing in March,  
10 April 2020 to obtain PPE.  
11 There was very little PPE manufactured in the UK at  
12 that point, and there was -- the view was that there was  
13 capacity within the UK manufacturing sector that could  
14 meet some of the demand that we were struggling to  
15 fulfil from other sources.  
16 **Q.** The UK Make team was a joint team, was it not?  
17 **A.** It was originally envisaged as a joint team.  
18 Effectively what it became was a group of officials from  
19 the Business, Energy and Industrial Strategy department  
20 that I led, and that we worked supporting teams that  
21 were already embedded in the DHSC.  
22 **Q.** We have heard from other witnesses about the call to  
23 arms which was made on 10 April, and on that date, the  
24 Department of Health and Social Care released a UK-wide  
25 plan for the national effort to procure PPE, and as part

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1 stage, this document coming from the NHS prior to your  
2 appointment, was to put in place:  
3 "... a rapid expansion of size, capability and remit  
4 of the Make team to increase the UK manufacture of PPE  
5 by an order of magnitude."  
6 And the third bullet point, second from the bottom,  
7 was a:  
8 "Move to a wartime process for compliance and  
9 bureaucracy."  
10 Was that essentially the approach and the  
11 understanding that you had to the UK Make team when it  
12 was established in April?  
13 **A.** Yes, my understanding was that the systems and processes  
14 in DHSC were not set up to procure its pace and engage  
15 with new manufacturers based in the UK, and so my role  
16 was to bring in a team to help make that happen, and  
17 trying to move that at a faster pace.  
18 **Q.** Could we turn, please, to page 2 of that document.  
19 Forgive me, the following page. And again. And again.  
20 And again. One more, please. Keep going. One more.  
21 One more. That's it.  
22 I'm sorry, Mr Jarvis.  
23 This sets out the operating principles. I'd just  
24 like to explore with you, please, whether this also  
25 reflects your understanding as you came into your

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1 position. It sets out that we're going to make because  
 2 we can't buy enough in time. The description that:  
 3 "This is a wartime supply chain ...  
 4 "The country is at our disposal ...  
 5 "We will need to re-tool ..."  
 6 And that:  
 7 "Engineering is the answer ..."  
 8 In headline terms again, was this your understanding  
 9 of the situation with respect of UK manufacturing when  
 10 you started at the UK Make team in April?  
 11 **A.** Yes.  
 12 **Q.** The UK Make team was led by Lord Deighton who, on  
 13 19 April of 2020 was appointed by the then Secretary of  
 14 State for Health and Social Care, Mr Hancock, to lead  
 15 the national effort to produce PPE. And the remit or  
 16 the brief to Lord Deighton was to coordinate the  
 17 end-to-end process with domestic manufacturers to feed  
 18 them into, what we've looked at with the other  
 19 witnesses, the eight-stage process.  
 20 You were appointed on 27 or 28 April 2020 and, as  
 21 you've mentioned, your role was to lead a small team.  
 22 How many officials did you lead within BEIS?  
 23 **A.** I think there was around eight when I started and  
 24 I think it went up to around ten.  
 25 **Q.** Just in terms of the remit and the limits of your remit

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1 entered into UK Make, about the landscape of UK  
 2 manufacturing?  
 3 **A.** Yes, so my understanding was that over a period of time  
 4 the UK has moved to more specialist manufacturing, where  
 5 we've been quite successful and competitive, but moved  
 6 away from the high-volume, low-margin type of  
 7 manufacturing that generally characterises the PPE  
 8 market.  
 9 **Q.** One of the features, if I can turn to this subject,  
 10 about the use of external advisers within UK Make, one  
 11 of the features of UK Make was that Lord Deighton  
 12 brought in a number of external advisers and supply  
 13 chain expertise from the private sector to assist in the  
 14 endeavour of UK manufacture. Could you talk us, please,  
 15 with your role in relation to working with those  
 16 external advisers and whether you think that was  
 17 a successful approach or not.  
 18 **A.** Yes, so my role was to support those advisers. They  
 19 were given the challenge of trying to identify relevant  
 20 manufacturers to work with, and to see if they could  
 21 bring them into the system.  
 22 What they brought, which we didn't have in  
 23 government, was detailed commercial experience of supply  
 24 chains to the role -- the role of government generally  
 25 in procurement is to put offers out there and then

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1 as part of leading that team, what were you being asked  
 2 to do? Were you being asked to involve yourself in  
 3 procurement decisions or what was your day-to-day role?  
 4 **A.** So it was very clear that procurement decisions remained  
 5 with DHSC. What my role was, was to try to ensure that  
 6 we could maximise the opportunities from  
 7 UK manufacturers to provide PPE and to be part of that  
 8 supply chain. So my role was to help identify companies  
 9 that could contribute to that and to make -- and to help  
 10 them through the process. But the procurement decisions  
 11 and the decisions on which companies to sign contracts  
 12 with remained with DHSC.  
 13 **Q.** So the procurement decisions remained within the  
 14 Department of Health and Social Care, and your role  
 15 within BEIS was to provide contact and expertise with --  
 16 interfacing with manufacturers and business  
 17 representative organisations that could help scale up  
 18 the domestic manufacture of PPE?  
 19 **A.** Yes, exactly.  
 20 **Q.** We've heard from a number of witnesses, not least  
 21 Professor Manners-Bell, that very little PPE was  
 22 manufactured in the UK. This was a largely high-volume  
 23 but low-margin business of which many -- much  
 24 manufacturing capacity had been essentially offshored.  
 25 Was that your understanding of the position as you

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1 consider proposals from the private market. What we  
 2 were looking at here was going out to the private market  
 3 and going out to companies, and asking them to consider  
 4 making something that they probably never made before,  
 5 and that's where we needed the expertise, the people  
 6 that Lord Deighton brought in were able to offer. And  
 7 I think that was hugely successful in terms of engaging  
 8 with companies in a way that enabled them to start being  
 9 able to manufacture at pace.  
 10 **Q.** So the expertise that came from the private sector was  
 11 with respect to supply chains and commercial expertise,  
 12 and things of that nature.  
 13 What experience had those external advisers had with  
 14 the interface they now had with government, and what was  
 15 your role in facilitating that?  
 16 **A.** So generally not a huge amount. I think -- I understood  
 17 some of them had previously worked in a public  
 18 procurement environment for the London 2012 Olympics but  
 19 generally in terms of working within central government  
 20 they did not have that experience, and that's where my  
 21 team, I think, added some value in helping them to  
 22 navigate that landscape.  
 23 **Q.** One of the ways in which the UK Make team worked was in  
 24 what are called, in your evidence and also the evidence  
 25 of other witnesses such as Lord Deighton and Sarah Munby

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1 on behalf of BEIS, is sprints. Could you help us,  
 2 please, with what sprints are and how they assisted in  
 3 the UK Make team and the scaling up of domestic  
 4 manufacturing?  
 5 **A.** So sprints is essentially a project management tool. In  
 6 this context what they were used for was to identify  
 7 product categories where we knew there was a shortage,  
 8 and the sprint process was to evaluate the market and  
 9 what was available, what the gap was between what was  
 10 available and what was needed, and what UK manufacturing  
 11 capacity might be available to help fill that. So that  
 12 would be looking at companies that operated in those  
 13 markets, or related markets, and trying to identify  
 14 where there was potential for those companies, supported  
 15 by government, to be able to start manufacturing.  
 16 **Q.** Is it right that the way in which the sprint teams  
 17 worked was that there was a dedicated timeframe in which  
 18 a specific piece of work needed to be completed?  
 19 **A.** Yes, it was very tightly managed. I think it was  
 20 probably no more than a week, so in a sense the team  
 21 were given their marching orders to look at a product  
 22 and to come back within a few days and say what they'd  
 23 found and what they thought was possible to be done.  
 24 **Q.** And so within a week, there was a priority product which  
 25 was identified for each sprint team, and what they were

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1 the names of the companies that operated in those  
 2 markets. So that sprint process was really to try to  
 3 identify and move quite quickly to bring those companies  
 4 online.  
 5 **Q.** And that identifies, if I may say so, clearly what the  
 6 expertise was within BEIS: that the connections within  
 7 industry and the connections with business  
 8 representative organisations was the area in which BEIS  
 9 had the specialist expertise; would that be fair?  
 10 **A.** That's right, so we had sector contacts and we also had  
 11 regular contact with the business representative  
 12 organisations, who themselves, of course, had contacts.  
 13 **Q.** Could I ask you, please, to just touch upon your  
 14 relationship and how it worked with Lord Deighton. What  
 15 were you briefed to do, and what problems were you  
 16 tasked with solving?  
 17 **A.** So I saw my role as to support Lord Deighton to do what  
 18 he thought needed to be done to meet the challenge that  
 19 we'd got in front of us. And that involved a range of  
 20 things, really. It involved ensuring that he could  
 21 bring in the people that were needed to help support the  
 22 sprints and the product categories that they developed  
 23 into. So we needed to regularise their arrangements and  
 24 bring them in so they could work within government.  
 25 There was a lot of managing the incoming requests

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1 required to do was to find the suppliers and establish  
 2 a supply chain design; is that right?  
 3 **A.** Yes.  
 4 **Q.** The sprint teams were divided up into, I think, six,  
 5 each dealing with a category of PPE. Could you help us,  
 6 please, the categories of PPE were films, eye  
 7 protection, three face masks, gloves, gowns and  
 8 chemicals. But in relation to dividing this up into  
 9 categories, what assistance was that to the focus and  
 10 the speed at which the UK Make team was able to scale up  
 11 domestic manufacturing?  
 12 **A.** So for each of those categories the team brought in by  
 13 Lord Deighton and supported by my team would look at  
 14 what products were needed, and the volume of them, and  
 15 would then start a process of contacting companies that  
 16 were identified that we could -- that could manufacture  
 17 at pace, and at large volumes. So what my team did in  
 18 that time was to link people with, for example, in the  
 19 Business department we have sector teams who work with  
 20 particular types of product and the type of  
 21 manufacturing. So, for example, there is a chemicals  
 22 team that works with people that produced plastics, for  
 23 example.  
 24 So what we did was facilitate those sort of  
 25 introductions because they would have the contacts and

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1 and incoming contacts from external organisations,  
 2 wanting to know what was happening so I would help to  
 3 facilitate meetings, for example, with the business  
 4 representative organisations, help manage that process  
 5 so that there was a flow of information, and that where  
 6 there were barriers that emerged to moving at pace,  
 7 where could -- you know, my team could be used to try to  
 8 help break down some of those barriers and make the  
 9 process move more quickly. So whether that would be in  
 10 helping to connect people with people who could advise  
 11 on innovative manufacturing techniques to enable  
 12 companies to operate 24/7 rather than less frequently  
 13 than they might have done before the pandemic, for  
 14 example, we could put them in touch with those contacts,  
 15 whether it was helping them with the regulatory  
 16 processes.  
 17 So we very much saw our role as supporting those  
 18 product categories to make sure that UK manufacturing  
 19 could play its part in meeting the demand, the shortfall  
 20 that we had.  
 21 **Q.** I'd like to move on, please, to a number of areas in  
 22 which UK Make seemed to innovate in terms of its  
 23 approach to the procurement of PPE. The first I want to  
 24 touch on, please, is the focus that was placed on large  
 25 domestic manufacturers. The Inquiry has received quite

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1 a lot of evidence about one of the consequences of the  
2 call to arms being that there were tens of thousands of  
3 offers of assistance into the Department of Health and  
4 Social Care, the Cabinet Office, and so forth.

5 The focus within PPE Make was on a number of  
6 large-scale domestic manufacturers. Could you help us,  
7 please, with how those manufacturers were selected, what  
8 your role in that was, and how BEIS assisted in that?

9 **A.** Yes. So the decision was made to move from what was  
10 essentially a reactive approach to the offers that were  
11 coming in, which as you know were very large in number,  
12 to focusing on companies that could produce at scale.  
13 So my role on that, within each product category, the  
14 lead for that category would be looking at companies  
15 that were operating in related markets.

16 So, to give you an example, I don't think anyone in  
17 the UK was producing plastic aprons prior to the  
18 pandemic but there were companies that did produce  
19 plastic products and had similar sort of techniques, so  
20 I would -- the way we supported that was by connecting  
21 those product categories with, for example, the  
22 chemicals team who had contacts in that industry so they  
23 could identify the big companies that potentially could  
24 operate at scale, and then it was a question of  
25 contacting those companies to see if they could help,

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1 diverted towards companies that could produce at scale.  
2 And I think that was how we were able to stand up the  
3 manufacturing capacity that we could, and produce the  
4 PPE domestically that we were able to do, from what was  
5 essentially a very small amount pre-pandemic to quite  
6 a considerable contribution to the overall demand by the  
7 time we left.

8 **Q.** Could I ask you, please, about a problem which you refer  
9 to in your witness statement, a frequently recurring  
10 problem, which was the speed at which regulatory  
11 approvals were able to be obtained for those  
12 UK manufacturers offering their support.

13 Could you talk us through, please, what those  
14 problems were at the beginning and how easy or how  
15 difficult it was to solve that regulatory approvals  
16 problem.

17 **A.** Yes, I mean, the way the system was set up for  
18 peacetime, if you like, was quite a long lead-in of  
19 regulatory approvals. So companies would go through  
20 quite a lengthy process with a range of different  
21 regulators, depending on the product that they were  
22 producing and what it would be used for, that they would  
23 need to go through and get approvals at each stage, and  
24 that would involve being -- tests being carried out on  
25 the product. And my understanding was that the way that

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1 and what they would need to be able to bring that  
2 product online.

3 **Q.** The number of domestic manufacturers that were  
4 identified at the outset was just short of 200. I think  
5 it's around 140 to 170. And of those, about 37 were  
6 awarded contract in the PPE Make Programme. What was,  
7 in broad terms, the criteria that was applied to  
8 selecting those companies that were going to be put  
9 forward for the award of contracts?

10 **A.** I think, in very broad terms, it would have been about  
11 the ability to produce at scale and at pace, and that  
12 would have been the driving factors. And obviously  
13 there would then be a process to ensure that those  
14 contracts were value for money in the context of the  
15 market that we were operating in at the time.

16 **Q.** Could I ask you, please, for your reflections on whether  
17 you consider that approach worked in terms of PPE Make,  
18 to focus on a number of large manufacturers, small in  
19 number, but that were able to pick up the pace?

20 **A.** Yes. I think it did work. I think it was a decision  
21 that I think Lord Deighton made very quickly on  
22 coming -- on taking up, that that would be the approach  
23 that we should take, and I think the timeframe that was  
24 being spent sifting through large numbers for what would  
25 have been relatively small-scale production was instead

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1 system worked would then -- had a long lead-in at the  
2 front and then once companies had become approved, then  
3 the process would be very smooth, and they would produce  
4 with relatively little friction.

5 That process didn't work in the period that we were  
6 operating in because we needed to get people  
7 manufacturing very quickly. So the challenge was to try  
8 to make that process as smooth as possible and to speed  
9 it up so that we could, rather than having this long  
10 front end before companies could start manufacturing, we  
11 could expedite that and get companies manufacturing in  
12 time to meet the demand that we had.

13 **Q.** My Lady's Inquiry has heard evidence from Mr Gove about  
14 the difficulty with trying to speed up regulatory  
15 approvals and then hitting what he described as the  
16 brute facts of safety. And was that a problem which you  
17 in your department were trying to tackle with speeding  
18 up this regulatory approvals process?

19 **A.** Yes. I mean, there was never any question of there  
20 being any compromise on the quality of the product and  
21 the standards it needed to meet. What I think we were  
22 able to do, and the system as a whole was able to do,  
23 was to try to accelerate the processes and to ensure  
24 that particularly, for example, where different  
25 regulatory bodies might have a decision to make in

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1 relation to the same product, that that could happen  
2 simultaneously rather than over time, which I think was  
3 what would usually happen.

4 So it was clear that the products needed to meet the  
5 standards that were required. The question was how  
6 could we make sure that the manufacturer understood what  
7 those standards were, and what designs would meet those  
8 standards to enable them to bring those products to  
9 market.

10 **Q.** What did you and your team do with the manufacturers to  
11 help them through that process?

12 **A.** So the direct contacts with the manufacturers were  
13 largely led by the product category leads working to  
14 Lord Deighton. What we did was where they met  
15 a barrier, if you like, where they wanted to make  
16 a product but weren't sure about the, you know -- to  
17 give an example, if you wanted to make aprons, what  
18 thickness of aprons was the right amount that was needed  
19 to meet the required standards? We would make sure that  
20 those companies were given that information as quickly  
21 as possible. So we had somebody attached to each team  
22 who could basically follow up on these individual  
23 enquiries, find the right regulatory authority, find the  
24 right person in that regulatory authority to tell the  
25 company what they needed to be able to do.

17

1 no compromise on. Is that right?

2 **A.** Yes.

3 **Q.** And then there are set out there a number of changes to  
4 the systems which are considering regulation and  
5 approval. One of them, regulatory easements put in  
6 place by the Office for Product Safety and Standards  
7 whose witness we're going to hear from next. The second  
8 was that the Cabinet Office had established  
9 a decision-making committee comprising senior decision  
10 makers and regulators from the Cabinet Office, the MHRA,  
11 the Health and Safety Executive, and the OPSS. And then  
12 finally, that the OPSS is supporting key new suppliers  
13 to help them navigate the regulatory regime.

14 That took place -- that meeting took place on  
15 21 April, so early on or just before your appointment to  
16 the PPE make team. By the time that you had started in  
17 your work, had you noticed that there was a speeding up  
18 of regulatory approvals or was this a persistent problem  
19 from your perspective?

20 **A.** It's quite hard to give a definitive answer on that  
21 because I wasn't aware of what it was like before.  
22 I mean, I think that there were certainly processes in  
23 place and an awful lot of resource and people,  
24 particularly from OPSS being put into supporting these  
25 processes. So I think, and my understanding of how long

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1 **Q.** Was the way that it worked, was it essentially to take  
2 a manufacturer from the beginning, the introduction, the  
3 triage, through the eight-stage process that we heard  
4 Mr Marron give evidence about, and to guide them through  
5 that process? Is that the way that it worked?

6 **A.** Yes.

7 **Q.** Could we have up on screen, please, INQ000475332.

8 This is a Covid-19 strategy deep dive meeting, and  
9 a briefing for it. The purpose is for the Secretary of  
10 State's attendance at the Covid-19 deep dive.

11 Could we turn to page 3, please. Thank you.

12 "PPE and Regulation". So one of the ways in which  
13 the manufacturers were assisted was by providing them  
14 with the guidance and the documentation that the  
15 manufacturers needed. Another way of unblocking some of  
16 those issues with regulation and the speed of approvals  
17 is set out here:

18 "In normal circumstances ... PPE is a highly  
19 regulated product ... governed by [as you've already  
20 referred to] strict quality assurance processes, through  
21 third-party conformity assurance and testing, with the  
22 law requiring it meet the essential health and safety  
23 requirements."

24 Those are the brute facts, the requirement of safety  
25 within the manufacture of PPE, which you said there is

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1 they normally take, which I think is, you know, months  
2 if not years, it was being very concertina'd so I think  
3 it was moving more quickly. But I think, when it came  
4 to the bit that I was working on and responsible for,  
5 which was working with UK companies, I think what we saw  
6 our role was very much was to try to take those  
7 companies through that process as quickly as we could  
8 and as efficiently as we could, which meant docking into  
9 some of the things that are described here.

10 **Q.** Could we have a look, please, taking this forward  
11 a little further in the chronology, at INQ000477708.  
12 This is one of a number of emails which you're involved  
13 in, setting out updates about the way in which the  
14 system appeared to be working.

15 If we could turn, please, to the following page and  
16 to paragraph 4.

17 As I say, this on 4 and 5 May, and this is picking  
18 up the same theme about regulation and regulatory  
19 processes, setting out how the implementation unit can  
20 assist, taking forward recommendations for training of  
21 procurement staff, increasing the use of pre-approved  
22 designs, increasing testing house capacity. And you  
23 make the suggestion, which I think you've referred to  
24 already, about a regulatory expert at the point of each  
25 new major deal.

20

1           Could you help us, please, with just a couple of  
2 points arising from this. First of all, pre-approved  
3 designs. What is that a reference to and how was that  
4 going to assist those involved in the manufacture of  
5 PPE?  
6 **A.** So what we were looking at was would it be possible to  
7 develop a template design, if you like, that you could  
8 simply provide to a manufacturer and then say to them  
9 "If you make within this template, then therefore -- if  
10 you do that, then your product will meet the regulatory  
11 requirements that are there", rather than the slightly  
12 iterative process that I think would normally operate,  
13 where companies would make something and adapt it and  
14 try and make sure that it complied.

15           So that's what we were trying to develop for each of  
16 the individual products, and by placing somebody within  
17 each category, we were trying to help them through that  
18 process, either with a, sort of, formal template or  
19 simply just guiding them through the process.

20 **Q.** We'll come back to pre-approved blueprints a little  
21 later. Could I turn then, please, to testing house  
22 capacity. Could you help us, please, with what is  
23 a testing house and what function does it play in  
24 relation to the approval of PPE which is being  
25 manufactured?

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1           because the United Kingdom did not have a pre-existing  
2 domestic manufacturing capacity or at least a very small  
3 one, the testing house capacity in the UK was  
4 a bottleneck, wasn't it?

5 **A.** I think it risked being one. My understanding was that  
6 we were able to take the companies that we eventually  
7 ended up working with through that process and to meet  
8 the -- to get the testing done to enable them to get  
9 their product to market, but it certainly risked being  
10 one.

11 **Q.** And was that in a similar way, as you described, to  
12 taking them through the eight-stage process? This was  
13 perhaps a sort of handholding that with a manufacturer,  
14 you'd be able to take them through the process for  
15 having products approved?

16 **A.** Yes.

17 **Q.** Could we have up on screen, please, INQ000475400.

18           This, again, is taking you a little further into the  
19 chronology.

20           And over the page, please. The top of the page.  
21 This is an email from you on 22 May, and you make this  
22 observation:

23           "If I'm honest, I think we still have some way to go  
24 here on the decision-making process. I know there has  
25 been a bit of a reset moment with the decision making

23

1 **A.** So I think your next witness is probably better  
2 qualified to talk about this than I can. I can give you  
3 my perspective from the time --

4 **Q.** Of course.

5 **A.** -- but I think, in order to be able to meet the  
6 appropriate regulatory standards, products had to be  
7 tested. And the testing house facilities were generally  
8 located near the manufacturing, for obvious reasons, and  
9 there was some testing house capacity in the UK, but not  
10 for every test and it was quite stretched. So one of  
11 the tasks that my team undertook was trying to  
12 understand what was available, and what could be  
13 maximised, how could we make the most of what we had in  
14 the time that we had available to meet the requirements.

15           So I wasn't close to exactly what was needed for  
16 each product but we knew that testing was part of it and  
17 we knew that for certain products, there were certain  
18 types of tests that we had to find somebody who could  
19 do it.

20 **Q.** And so what was happening was testing house capacity,  
21 and we'll consider this with Mr Russell, who is  
22 following you, is that the testing houses, by and large,  
23 were based overseas, close to where the manufacturing  
24 was located. So, for example, with respect to PPE it  
25 may go through testing houses based in China, but

22

1           committee but my own view is we need a more radical  
2 overhaul of the whole process and a wider discussion  
3 which I would welcome the opportunity to be a part of."

4           Is this part of the same problem, this regulatory  
5 approvals process that was holding back the UK  
6 manufacturing capacity and ability to procure?

7 **A.** Yes, I mean, I would draw a distinction between what we  
8 needed to do to get the 37 companies that you referenced  
9 earlier through the process and what we might need  
10 longer term. And so I think what I was reflecting here  
11 was that if you were going to set up a system that was  
12 going to try to bring multiple manufacturers into it,  
13 multiple UK manufacturers into it, then probably what we  
14 had would need the sort of radical overhaul that I was  
15 talking about.

16           I think we managed to take those companies -- the  
17 companies that we worked with through this process in  
18 time to -- and prevent it being a bottleneck. But  
19 I think that the radical overhaul I'm reflecting there  
20 is what might be needed, I think, for a longer term  
21 strategy where you're looking to engage multiple --  
22 potentially looking to engage multiple manufacturers in,  
23 yeah.

24 **Q.** So this proposal here, you're reflecting back on the  
25 fact that although you've been successful with taking

24

1 manufacturers through the process, at some point in the  
2 future, if this were to go -- going to become a problem,  
3 that a radical overhaul of the system ought to be  
4 considered because it would speed up the process; is  
5 that fair?

6 **A.** Yes.

7 **Q.** Thank you. Could we take that down, please.

8 I'd like to turn, please, to another subject. We've  
9 referred to the focus on large-scale domestic  
10 manufacturers. I wonder, please, if you could help the  
11 Inquiry with what efforts, if any, were made to engage  
12 smaller, regional and locally based manufacturers,  
13 either by BEIS or by other institutions within  
14 government.

15 **A.** So I believe that there was some work undertaken locally  
16 and regionally with companies that potentially could  
17 help, and, you know, the nature of procurement meant  
18 that sometimes these products would be getting procured  
19 locally. So we supported that to some extent, so  
20 there's a Cities and Local Growth team within the  
21 Business department at the time that was regionally  
22 based and had a regional presence and would have  
23 contacts with manufacturers, and, if you like, would be  
24 able to have -- adopt a similar role to the one that we  
25 were undertaking at a national level, really, which is

25

1 techniques. So I think the example I gave earlier was  
2 of companies that were perhaps offering -- operating  
3 only during the day, and would then be able to move to  
4 24/7 manufacturing with some additional support, and  
5 some manufacturing techniques. So they were basically  
6 specialists -- and they were regionally based, so we  
7 were able to put them in touch with companies depending  
8 on where they were based.

9 **Q.** Again, your role within BEIS was to facilitate that.

10 **A.** Mm.

11 **Q.** To make sure that local manufacturers could be put in  
12 touch with local HVMC -- "catapults" I think they're  
13 called?

14 **A.** That's right.

15 **Q.** And to make sure that, if there was assistance required  
16 at the local level, that BEIS would be able to  
17 facilitate that, to make the introduction?

18 **A.** Exactly.

19 **Q.** Could we have up on the screen, please, INQ000475418.

20 To take you forward again a little further in the  
21 chronology, and you're making some reflections in this  
22 email about what the PPE Make team has been able to  
23 achieve in the short time in which it's been in  
24 operation, if we could go to the penultimate paragraph,  
25 please. This is from you:

27

1 to link people in with the right bits of the system to  
2 see if they could start to produce. But the focus of my  
3 team was predominantly on the national and the  
4 large-scale manufacturers.

5 **Q.** So from your vantage point, the focus in the centre of  
6 government was really on the larger-scale manufacturers,  
7 but of course there were local and regionally-based  
8 manufacturers who might be involved in domestic  
9 manufacturing and also in supplying directly to NHS  
10 trusts and suchlike?

11 **A.** That's right, yeah.

12 **Q.** Could I ask, please, about an institution which is  
13 called the High Value Manufacturing Catapult. Could you  
14 explain to the Inquiry what that is and what role that  
15 played in assisting with the manufacture of PPE in  
16 the UK.

17 **A.** Yes. So this was a part of government which I hadn't  
18 experience of before, but they are -- receive funding  
19 from government to support innovative manufacturing  
20 techniques, and they were put -- I was put in touch with  
21 them very early on in my time in this role as an  
22 organisation that would potentially be able to help.

23 And what they did was to help individual  
24 manufacturers with techniques and processes that would  
25 help them be more productive, using innovative

26

1 "Pre-Covid, UK manufacturers supplied less than  
2 1 per cent of the PPE used by [the] NHS and social care.  
3 We now have contracts in place with UK manufacturers  
4 across 8 of the 10 categories and expect UK  
5 manufacturing to be supplying 20% of our significantly  
6 increased UK demand over the next 12 months. Most of  
7 these manufacturers are making PPE for the first time  
8 and have benefited from a range of government  
9 support ..."

10 A reference to:

11 "... (CBILS [which is the Covid (*sic*) Business  
12 Interruption Loan Scheme], support with sourcing raw  
13 materials and machinery to convert processes and  
14 specialist advice from the manufacturing catapults)."

15 Which you've just referred to.

16 And you referred to the contract with government  
17 enabling "25-30 UK companies with direct contracts to  
18 bring back furloughed staff and in many cases to take on  
19 new staff", and you give an example of one company in  
20 the West Midlands having doubled its workforce, with an  
21 additional 220 staff, and, with the help of the local  
22 catapult, moving to 24/7, ie around the clock  
23 production.

24 From that vantage point, Mr Jarvis, had you viewed  
25 the UK Make programme essentially to have been

28

1 a success?

2 **A.** Yes, I think it was, and I think it -- what we were able  
3 to combine, largely, very much, I think, with the  
4 support of the people that Lord Deighton brought in, who  
5 had the commercial expertise -- so when I talk there  
6 about support with sourcing raw materials and machinery  
7 to convert processes, I mean it was those people that  
8 were able to make that move at a speed that I think we  
9 would not have been able to do in government on our own.

10 And I think the challenge that we were given at the  
11 beginning, which you referred to, was that there was  
12 a gap between what we could procure overseas and what  
13 was needed, and I think that the manufacturers that we  
14 were able to set up were able to fill that gap.

15 **Q.** This problem that UK Make had solved was one which was  
16 being solved as the crisis evolved, wasn't it? And so  
17 the UK Make team had really only started to get going  
18 when Lord Deighton was appointed and when you were  
19 appointed in about the end of April, and so in those  
20 crucial months between the failure of the just-in-time  
21 contracts, which we've heard was back in February, and  
22 the standing up of the UK Make programme, some vital  
23 months were lost, were they not?

24 **A.** I think potentially.

25 **Q.** And looking forward, if I may, to what there might be in  
29

1 And could we have a look, please, at INQ000477747.

2 This, again, taking it forward in the chronology to  
3 29 July. The third paragraph from the bottom. And  
4 again, this is an email from you to Lord Deighton and  
5 others, forwarded on to others. You are providing your  
6 reflections about what has been learned as a result of  
7 UK Make and what this may mean, looking forward into the  
8 future.

9 You say:

10 "Looking [forward] ahead, BEIS will want to be  
11 apprised of DHSC's procurement strategy ... and [targets  
12 of] domestic production."

13 And you note that:

14 "There is a strong UK base there for most categories  
15 to respond positively to ... tenders though ... there  
16 are risks ... if tendering opportunities are not made  
17 available."

18 You go on, if we could turn over the page, please --  
19 forgive me, if we turn back, it's the next paragraph.

20 "The other area where I am focusing is regulation  
21 and enforcement."

22 And you speak there about OPSS, again whose  
23 witnesses we're going to hear from in a moment, about  
24 a more streamlined arrangement in the future, better  
25 clarity of roles between them and the Health and Safety  
31

1 the event of a pandemic in the future, there are  
2 a number of lessons from the way in which the UK Make  
3 programme operated, in terms of approaching and  
4 distilling the manufacturers, in terms of streamlining  
5 regulation, in terms of working with local  
6 manufacturers, which, if there had been the benefit of  
7 time, and even with the benefit of hindsight, would  
8 contribute to better preparedness for a pandemic in the  
9 future. Would you agree with that?

10 **A.** Yes.

11 **Q.** Could we have a look, please, at one of your email  
12 updates, this one on 29 June, at INQ000475422. And just  
13 over the page, please. The second paragraph from the  
14 top. You were in the process at this stage, again at  
15 the end of June, so coming towards the fastest scale-up  
16 of domestic manufacturing, you're providing some  
17 reflections.

18 You're considering the economic viability and the  
19 broader desirability of UK manufacture and a number of  
20 aspects of this were in progress: product strategies and  
21 analysis of the costs and benefits of UK manufacture;  
22 what form government support could take; the role of  
23 regional manufacturing, and also the potential role of  
24 innovation. So, for example, in relation to re-usable  
25 PPE.  
30

1 Executive. You refer to legislative change and:  
2 "... needs to be done in the context of wider  
3 product safety issues ..."

4 But you say that you're comfortable that OPSS are  
5 now seized of the need to prioritise PPE in their  
6 thinking.

7 Then you say this:

8 "In the meantime, I think we should be developing  
9 a mechanism for a future crisis whereby HMG can publish  
10 approved standardised designs for each product required.  
11 These designs could be used by manufacturers without the  
12 need for full product approval by a notified body."

13 And you refer again to the role of OPSS.

14 So again, providing your reflections based upon your  
15 experience at PPE Make, UK Make, streamlined regulatory  
16 approvals, and pre-approved blueprints for designs, are  
17 some of the things which in the future preparing for  
18 a pandemic ought to be considered; is that fair?

19 **A.** Yes, I think it is, because I think what you -- it is  
20 unrealistic, I think, to expect UK manufacturing to be  
21 competing in normal times with other countries for the  
22 sort of low-value, high-volume products that were  
23 needed. But what you would want in the future is to be  
24 able to stand up that capacity in a crisis, and one of  
25 the things I think that would make that simpler are the  
32



1 sorts of things that I'm talking about here that you  
2 would basically be able to have an off-the-shelf-type  
3 template design that you could give to manufacturers and  
4 you would already have the contact with those  
5 manufacturers, and they would know that they might be  
6 called upon in a crisis. I think that's the sort of  
7 resilience system you're looking to get towards.

8 **Q.** Could we turn, please, to the lessons learned on behalf  
9 of the Department for Business, Enterprise (sic) and  
10 Industrial Strategy, some of which reflects what you've  
11 described as lessons learned as a result of UK Make, and  
12 some which go a little further. And there is some  
13 overlap between your evidence, the lessons learned on  
14 behalf of BEIS, and also some of the recommendations  
15 made by Professor Manners-Bell.

16 This is INQ000066032, and if we could turn, please,  
17 to pages 5 and 6. I'll just take you briefly through  
18 this lessons learned document on behalf of BEIS.

19 If we could zoom in, please, to "UK competitiveness"  
20 and at the bottom of the second sentence, the final  
21 sentence of that paragraph, it's recommended that:

22 "... DHSC include a full cost to serve analysis from  
23 the procurement team in their work to build a resilience  
24 model to determine to which extent UK manufacturers  
25 should continue to be encouraged to enter the market."

33

1 And so Mr Jarvis, would you agree that if, in the  
2 event of a pandemic in the future, that with some  
3 planning and foresight, we have the beginnings here of  
4 what might be considered to be an emergency industrial  
5 strategy for the support of domestic manufacture of  
6 medical equipment such as PPE?

7 **A.** Yes, I think that's right. I think, if you accept that  
8 UK manufacturing is going to be part of your resilience  
9 strategy for individual products, and that won't always  
10 be appropriate, but where it is, I think what you want  
11 is a set of processes and enable that to be stood up at  
12 pace, recognising that it's unlikely to be there in  
13 normal times. And so I think the things that we talked  
14 about there would form part of a resilience strategy for  
15 DHSC and looking at what products are essential in  
16 there, and then what part domestic manufacturing might  
17 play in part of that resilience alongside stockpiling  
18 and diversity of supply.

19 **MR SHARMA:** Mr Jarvis, thank you very much for giving your  
20 evidence?

21 I don't have any further questions for you, but  
22 there are some Rule 10s from Scottish Covid Bereaved and  
23 from FEMHO.

24 **LADY HALLETT:** I think it's Mr Thomas first.

25 **Questions from PROFESSOR THOMAS KC**

35

1 So that's to work out whether it would be cost  
2 effective at a point in the future to scale up domestic  
3 manufacturing the way that it had been during the  
4 pandemic; is that right?

5 **A.** Yes.

6 **Q.** And then the paragraph below, again the second or rather  
7 the final sentence: our advice is that where such  
8 a policy to be pursued, that is support for domestic  
9 manufacturers, grants are the most effective tool and  
10 the reason for that is that they are an injection of  
11 cash direct to the company and they don't have  
12 associated costs and administrative burden of other  
13 approaches.

14 If we could turn, please, to local manufacturing.  
15 And again, a theme which is represented in your  
16 evidence, which is that with some foresight and  
17 planning, there could be more support, perhaps even from  
18 the centre of government, on local and regional  
19 manufacturers.

20 And then the same document, we don't need to turn to  
21 it, considers the suggestions and the recommendations  
22 which you've made in respect to blueprints for designs  
23 for manufacturers and building it into wider government  
24 responsibilities to the regions and local areas around  
25 the United Kingdom.

34

1 **PROFESSOR THOMAS:** Good morning, Mr Jarvis, can you hear me?

2 **A.** Yes, I can, yes.

3 **Q.** I'm representing the Federation of Ethnic Minority  
4 Healthcare workers. In paragraph 2.6 of your statement  
5 you describe leading a small team of BEIS that worked  
6 closely with the DHSC procurement team. Was there  
7 a specific role or individual within your team who was  
8 expressly concerned with or responsible for ensuring  
9 equality in PPE use and fit, including the adherence to  
10 the Public Sector Equality Duty and the requirement to  
11 eliminate discrimination?

12 **A.** So all of our work would be governed by the Public  
13 Sector Equality Duty. I mean, I think we were involved  
14 on the supply side rather than the demand side, so what  
15 we were given, if you like, were products that needed to  
16 be bought and the specification, and our role was to  
17 identify people who could manufacture to that standard.  
18 So that was the role that we played.

19 **Q.** There's a DHSC slide dated 12 June 2020 -- we don't need  
20 to call it up, I'll just tell you what it says -- for  
21 the Programme Delivery Board List, under "Strategic  
22 risks", that there is "a risk that we do not provide  
23 inclusive product specification for all end users, for  
24 example ethnic minorities and those with hearing  
25 disabilities".

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1 And this was marked as a medium risk on the  
2 likelihood and impact.  
3 The reference, my Lady, is INQ000339236\_0029.  
4 That's the slide's Programme Delivery Board dated  
5 12 June 2020.  
6 Mr Jarvis, my question is this: how was this risk  
7 assessed and monitored within the procurement processes  
8 that you oversaw?  
9 **A.** I wouldn't have had visibility of that, because I think  
10 the decisions on what was to be procured and what was to  
11 be commissioned would have been taken within DHSC. So  
12 that would not have come across my work beyond what we  
13 were being asked to source in the markets that we were  
14 working in.  
15 **Q.** That leads me to my final question, which is, again, was  
16 the Public Sector Equality Duty considered in relation  
17 to this risk and procurement decisions -- discussions  
18 that you were privy to?  
19 **A.** I don't know.  
20 **PROFESSOR THOMAS:** Thank you, my Lady, those are my --  
21 **LADY HALLETT:** Thank you, Mr Thomas.  
22 Ms Mitchell.  
23 Ms Mitchell is that way.  
24 **Questions from DR MITCHELL KC**  
25 **DR MITCHELL:** I'm obliged.

37

1 brought up -- Mr Manners-Bell recommends that  
2 a structure should be established to enable formal  
3 communications between the UK Government and devolved  
4 administrations on PPE and healthcare equipment issues.  
5 Did you experience any difficulties in communication  
6 between the Scottish and UK Governments?  
7 **A.** I didn't experience any, no.  
8 **Q.** No. When you say, "I didn't experience any", does that  
9 suggest that you knew others did, or was that  
10 -- (overspeaking) --  
11 **A.** No, no, it wasn't meant to be a pointed comment. I just  
12 wasn't aware.  
13 **DR MITCHELL:** I'm obliged.  
14 My Lady, no more questions.  
15 **LADY HALLETT:** Thank you very much indeed, Ms Mitchell.  
16 Mr Jarvis, thank you for all you did to contribute  
17 to making UK Make a success. Thank you so much for your  
18 help and thank you for coming today in what I know must  
19 have been very difficult circumstances for you. We all  
20 hope you understand how sorry we are for your loss.  
21 **THE WITNESS:** Thank you.  
22 **LADY HALLETT:** Thank you.  
23 Very well, I shall take an early break now, and  
24 return at -- I'll have a slightly longer break -- 11.25.  
25 **(11.04 am)**

39

1 Mr Jarvis, I appear as instructed on behalf of Aamer  
2 Anwar & Company on behalf of the Scottish Covid  
3 Bereaved. Touching on one of the last matters you  
4 discussed, the issue of UK manufacturing as part of  
5 resilience strategy, what I would like to know is what,  
6 if any, discussions did you have with the Scottish  
7 Government in relation to developing capacity to  
8 manufacture PPE during the pandemic?  
9 **A.** I think, from memory, there was a meeting with the  
10 devolved nations that I attended where we shared our  
11 experience of trying to work with domestic  
12 manufacturers, and -- but I can't remember anything  
13 beyond that.  
14 **Q.** Okay. Were you aware if there were other discussions  
15 that took place, perhaps with other colleagues, or do  
16 you think that was the sum total of the discussions?  
17 **A.** No, I think there was good coordination, and we were --  
18 I mean, for example, one of the companies that we worked  
19 with were -- Honeywell, were based in Scotland, so we  
20 would have been talking to officials from the Scottish  
21 Government about that, and that that was a regular part  
22 of the discussions. They just weren't discussions  
23 that I was regularly involved with.  
24 **Q.** Thank you. That perhaps takes me on to my next  
25 question, which is, in his report -- I don't need it

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1 **(A short break)**  
2 **(11.25 am)**  
3 **LADY HALLETT:** Ms Shehadeh.  
4 **MS SHEHADEH:** My Lady, the next witness is Graham Russell.  
5 **MR GRAHAM RUSSELL (sworn)**  
6 **Questions from COUNSEL TO THE INQUIRY**  
7 **LADY HALLETT:** I hope you haven't been waiting too long.  
8 **MS SHEHADEH:** Can you give us your full name, please.  
9 **A.** My name is Graham John Russell.  
10 **Q.** And before we get on to the witness statements that  
11 you'll be speaking to, I believe you wanted to say a few  
12 words?  
13 **A.** Yes, thank you very much.  
14 I would like to express my sympathy to those who  
15 were, and continue to be, affected by the Covid  
16 pandemic, and particularly to those where shortage in  
17 the supply of PPE or failings in the protection offered  
18 by PPE contributed to their loss.  
19 I also want to thank my fellow regulators in OPSS,  
20 in other national bodies and in local government, who  
21 worked tirelessly and professionally throughout the  
22 pandemic to mitigate these two risks.  
23 I know we were not always successful, and that's  
24 a matter of deep regret to me as a lifelong regulator,  
25 and I appreciate the opportunity provided by this

40

1 Inquiry to address these issues and the lessons learned.

2 Thank you.

3 **Q.** You have provided this Inquiry with a witness statement  
4 which is document reference INQ000562460. Is what is  
5 written in that statement true to the best of your  
6 knowledge and belief?

7 **A.** It is.

8 **Q.** You're also going to be assisting us with the passages  
9 of the statement provided on behalf of what was formerly  
10 BEIS and is now DBT, the statement of Sarah Munby, which  
11 is INQ000517443, insofar as it relates to the activities  
12 of OPSS and its work with other regulators in relation  
13 to PPE; is that right?

14 **A.** Yes.

15 **Q.** We are grateful for your assistance in that regard.

16 In terms of your own professional background, you  
17 are the chief executive at OPSS; is that correct?

18 **A.** Yes.

19 **Q.** And you were in that position during the pandemic; is  
20 that right?

21 **A.** I was.

22 **Q.** In 2018, OPSS, which is the Office for Product Safety  
23 and Standards, was created, and you were in fact the  
24 chief executive from the outset; is that correct?

25 **A.** That's correct.

41

1 going to crop up a lot.

2 Can I ask you to describe in simple terms, what is  
3 a market surveillance authority?

4 **A.** Yes, so a market surveillance authority is the regulator  
5 charged with delivering the functions -- called market  
6 surveillance -- that are intended to ensure that  
7 compliance with a given set of regulations is achieved,  
8 and then there are a set of processes that those  
9 regulations used that might involve intelligence-led  
10 inspections or border checks, et cetera. But the  
11 overall term is called "market surveillance".

12 **Q.** And in the UK, in the context that we're going to be  
13 discussing, market surveillance was delivered by local  
14 authorities, the Health and Safety Executive, Health and  
15 Safety Executive Northern Ireland, and the Medicines and  
16 Healthcare products Regulatory Agency; is that right?

17 **A.** Yes. They have defined spheres of operation. So MHRA  
18 is for, in this context, medical products, HSE is the  
19 market surveillance authority for PPE in the workplace,  
20 and Trading Standards is the market surveillance  
21 authority for consumer PPE or PPE outside the workplace.  
22 We also have access to the secretary of state's powers,  
23 so although we're not designated to the market  
24 surveillance authority we can also act in those consumer  
25 spaces.

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1 **Q.** And since then you've also held the position of director  
2 within the Competition, Markets and Regulatory Reform  
3 Division of BEIS?

4 **A.** Yes.

5 **Q.** Is that correct? Is that in addition to your role as  
6 chief executive of --

7 **A.** No, that is the way that the OPSS is represented in the  
8 department.

9 **Q.** Understood. You have, if I can put it this way, an  
10 extensive background in the regulatory sector, you began  
11 in Trading Standards and have worked in regulation ever  
12 since; is that right?

13 **A.** Yes.

14 **Q.** And you have shared some of your experience in a book  
15 which you co-wrote with Professor Chris Hodges in 2019  
16 called *Regulatory Delivery*, which sets out a model for  
17 improving the efficiency and effectiveness of the work  
18 of regulators?

19 **A.** Yes.

20 **Q.** And in 2023 you were asked to chair the Organisation for  
21 Economic Co-operation and Development's Regulatory  
22 Policy Committee.

23 **A.** Yes.

24 **Q.** Before we ask you about your work during the pandemic,  
25 it may be helpful if we explain some key terms that are

42

1 **Q.** And what is the difference, please, between a market  
2 surveillance authority and an enforcement body?

3 **A.** I'm not sure there's practically a lot of difference.

4 A "market surveillance authority" is the term used in  
5 certain legislation to define that set of functions.

6 **Q.** All right --

7 **A.** Enforcement isn't --

8 **Q.** Sorry. In terms of enforcement powers, some of these  
9 market surveillance authorities that we're discussing  
10 have those enforcement powers, but they all have  
11 different enforcement powers, is that right?

12 **A.** The legislation gives them powers, yes, which tends to  
13 differ between the legislation. You're right.

14 **Q.** And in the context of PPE regulation can you tell us  
15 what a notified body is?

16 **A.** Yes. So -- and this isn't specific to PPE. A notified  
17 body is the term that the European Union use, and  
18 therefore in the period that we're considering was the  
19 relevant term, for an organisation that is authorised to  
20 carry out third-party conformity assessment, and in the  
21 context of PPE for categories 2 and 3 -- so PPE has  
22 three categories, 1, 2 and 3, 3 being the most  
23 significant and Covid-related PPE was category 3.  
24 A notified body is a body that is authorised to carry  
25 out the conformity assessment required to put category 3

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1 PPE on the market.

2 **LADY HALLETT:** It's probably my age, Ms Shehadeh, but you're  
3 softly spoken, and Mr Russell, I'm afraid you're rushing  
4 your words together at the end of a sentence, so between  
5 you I'm having to rely on the transcript. If you  
6 could --

7 **MS SHEHADEH:** Of course.

8 **LADY HALLETT:** -- sort that out, both of you, I'd be really  
9 grateful.

10 Sorry to interrupt.

11 **MS SHEHADEH:** Of course.

12 You've briefly touched on this, but putting it  
13 simply, the Health and Safety Executive is responsible  
14 for, as you said, health and safety in the work places,  
15 but it also is responsible for regulating equipment that  
16 protects the wearer. Is that right?

17 **A.** So PPE is defined as items that are intended to protect  
18 the person wearing them. And where PPE is being  
19 supplied for the purpose of use in the workplace, then  
20 the HSE is the market surveillance authority.

21 **Q.** We are using the term "PPE" more widely, so not in its  
22 technically correct sense. We are using the term "PPE"  
23 to mean items worn to prevent the spread of coronavirus.  
24 In that sense, is it right that some of the items we  
25 think of as PPE might in fact be medical devices which

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1 resort -- if you can't stop the risk, then PPE is the  
2 last line of resort to protect that person.

3 But there's also the need to protect the patient or  
4 other people, and those two are not the same risk. So  
5 if you think about a mask, are you trying to make sure  
6 the wearer doesn't inhale something, or are you trying  
7 to make sure they don't exhale something? And those two  
8 things are not exactly the same, and they come from very  
9 different -- they come from a different regulatory  
10 regime. One of my tasks or our task in the pandemic was  
11 to ensure that that complexity did not become a problem  
12 for people seeking to supply products into the market.

13 **LADY HALLETT:** It speaks for itself, doesn't it? If PPE is  
14 designed to protect the wearer, if it's designed to be  
15 used in the workplace, and if it's designed also to  
16 protect the patient, you have three different regulatory  
17 systems in operation; is that right?

18 **A.** I may have misunderstood you, my Lady. I think two  
19 systems.

20 **LADY HALLETT:** Two?

21 **A.** I think the designing of the wearer -- sorry, the  
22 protecting of the wearer, sorry, and protecting from, in  
23 a medical sense, the patient.

24 That doesn't mean that you have to, you know, the  
25 same product can do both things, but the person putting

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1 fall within the remit of the MHRA?

2 **A.** Right. So PPE has a definition, in law, and the way  
3 it's regulated is in accordance with that definition.

4 I accept that PPE is also used more colloquially and  
5 differently by different people but yes, PPE is, in law,  
6 is products designed to protect the wearer or holder of  
7 the products. MHRA regulate medical products, and --  
8 this not my area of expertise now, but in very simple  
9 terms, those are devices that contribute to, amongst  
10 other things, the protection of the patient.

11 There are products that are intended to deliver both  
12 of those purposes to protect the wearer and the patient  
13 or a third party, and they're sometimes called dual-use  
14 products, and they would have to be brought to market  
15 with conformity assessment against both of those  
16 regimes.

17 **LADY HALLETT:** It sounds a bit complicated.

18 **A.** I think they come from very different places so although  
19 we're talking about PPE in that context, actually, PPE  
20 covers a vast range of items, and has to be -- the law  
21 has to be flexible enough to cover all those different  
22 places. The specific product that, I don't know,  
23 someone in a healthcare setting might be wearing, has to  
24 protect them as a person, because their employer has an  
25 obligation to protect them. And PPE is the last line of

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1 it on the market needs to know that it will do those  
2 things and needs to attest that it will do those things.

3 **MS SHEHADEH:** The attesting that it will do those things,  
4 was that the idea behind a conformity assessment  
5 certificate, C markings, and so on, evidence that the  
6 party putting the product on the market had checked that  
7 it was fit for use in its intended setting?

8 **A.** That's right. If I may just say a word about that?

9 **Q.** Please.

10 **A.** Not all products that are put on the market in the UK  
11 need to have third-party accreditation. PPE has these  
12 three categories, the lowest category is very low risk,  
13 things like gardening gloves, and there,  
14 self-declaration is adequate. The highest category,  
15 category 3, which Covid-related PPE is category 3, you  
16 need conformity assessment of the product and also of  
17 the production so that there's an assessment you will be  
18 able to make that product to that standard consistently.

19 So the manufacturer or the importer, the person  
20 placing it on the market, makes that declaration, but  
21 the law also requires them to have third-party  
22 accreditation and that's where the notified bodies  
23 come in.

24 **Q.** And what -- (overspeaking) --

25 **A.** That is because of the perceived high level of risk

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1 attached to those products.

2 **Q.** And what is it that the notified bodies are responsible  
3 for doing?

4 **A.** So they would receive, in normal times before the  
5 easements that we'll probably come on to, but they would  
6 receive from the manufacturer/importer, a request to  
7 have the product conformity assessed, they would supply  
8 information, technical files, background design  
9 material, and so on. And then the notified body would  
10 then either themselves carry out testing, or require  
11 testing to be carried out or look at results from other  
12 testing, and they would make an assessment of whether  
13 that product complied with the requirements, and for  
14 category 3, as I say, that would be about the product  
15 itself but also about the production process.

16 **Q.** And is that a time-consuming exercise?

17 **A.** In normal terms, yes.

18 **Q.** Are you able to tell us roughly how long that would  
19 take?

20 **A.** If you just bear with me, I think this is something from  
21 BSI, I think, sorry, British Standards Institution, that  
22 a mask in normal times might take 12 weeks for that  
23 process.

24 **Q.** Twelve weeks?

25 **A.** For that process.

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1 and it allowed the notified body to authorise the person  
2 placing that on the market to do so before that process  
3 was completed, provided it had begun and provided they  
4 had to receive sufficient assurance that the essential  
5 health and safety requirements would be met, and that  
6 easement was clarified by the European Union in July of  
7 2020 to say that that would also require the Market  
8 Surveillance Authority to assert that for that product.

9 And then second easement was where the government  
10 were purchasing themselves for healthcare settings and  
11 for that route, the easement was that the market  
12 surveillance authority could approve products without  
13 full conformity assessment, and where standards being  
14 used for that product were parallel and equivalent.

15 And that was, for example, used for some US  
16 standards which were not for the UK standards but were  
17 deemed by the market surveillance authority to achieve  
18 the requirements.

19 **Q.** Thank you. And prior to bringing into force easements  
20 in the UK, the government gave careful consideration to  
21 the risk balance.

22 Can we display, please, INQ000475266.

23 This is an email dated 24 March 2020. And it shows  
24 here that the:

25 "Secretary of State approved the non-legislative

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1 **Q.** So that's in normal times. Perhaps we'll come on to now  
2 to what took place during the pandemic. We've touched  
3 upon, with our previous witness, Mr Jarvis, the idea of  
4 regulatory easement.

5 **A.** Mm-hm.

6 **Q.** One of the roles that OPSS took on during the pandemic  
7 was to advise on and implement regulatory easement; is  
8 that right?

9 Now, this was an EU-wide initiative, wasn't it? It  
10 wasn't specific just to the UK. The EU issued  
11 a recommendation, Commission Recommendation 2020/403,  
12 which opened up the possibility of introducing  
13 a regulatory easement including in the UK.

14 There were two regulatory easements that were  
15 introduced ultimately in the UK. What was their effect?

16 **A.** I don't know if it would be helpful, but it might be  
17 helpful to just say a little bit about the challenges  
18 that the pandemic brought to PPE regulation and  
19 therefore why the easements were useful. I don't know  
20 if it would be --

21 **Q.** We'll certainly come on to that. If we could just deal  
22 with -- (overspeaking) --

23 **A.** So the easements, narrowly, there were two easements  
24 recommended by the European Union decision, one related  
25 to where a product would be approved by a notified body

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1 'easements' on measures to secure the supply of  
2 cleansing products and personal protective equipment".

3 And:

4 "He was keen [to ensure] these were taken forward in  
5 a measured way that continued to offer high levels of  
6 protection for consumers and workers (particularly NHS  
7 workers).

8 "He wants these measures to be focused on businesses  
9 that will deliver quality and safety to maintain  
10 supplies of essential products ... and not opening up  
11 a free-for-all for all the disreputable".

12 Thank you, we can take that down.

13 So really, there was a balance, a balancing act to  
14 be carried out here, wasn't there, between speed of  
15 supply, speeding up conformity, really, and ensuring  
16 that inadequate PPE didn't reach the front line?

17 **A.** Yes. The challenge that we faced as regulators  
18 throughout the pandemic was to achieve two things: one  
19 was to increase the supply of PPE, because it was  
20 needed, but second was to avoid unsafe PPE reaching the  
21 people who would use it. And I think balance might be  
22 taken to imply that there was some compromise of  
23 essential health and safety requirements and if that was  
24 the meaning of the word, then I would say there wasn't  
25 a balance. There was no compromise and I think the

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1 Secretary of State reflected that, and I think later  
2 comments by the Cross-Government Committee reflected the  
3 same thing as well, that there was no willingness to  
4 compromise on essential health and safety requirements.

5 What was being looked for was ways of getting safe  
6 product to the frontline quicker.

7 **Q.** Can we display, please, INQ000269653.

8 This is a letter written by the OPSS sent to the  
9 market surveillance authorities on 25 March 2020. We  
10 can see there there's some emboldened text, and it urges  
11 both speed and pragmatism in the assessment of PPE  
12 needed urgently across the NHS.

13 Can you help us with what was meant by pragmatism?

14 **A.** Yes. And I think the subsequent sentence that you've  
15 highlighted there possibly makes the point:

16 "Where international standards are being  
17 followed ..."

18 And this is the second easement I spoke about:

19 "... you should be pragmatic ... [focusing on] the  
20 safety and effectiveness of the product, rather than the  
21 full conformity [assessment] ..."

22 And I think that as what is meant by "pragmatic" in  
23 that sentence.

24 **Q.** And the market surveillance authorities were asked to  
25 prioritise this over market surveillance work for the

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1 I'll do my best.

2 Before the pandemic, PPE, which is a highly  
3 technical and highly important product, and subject, as  
4 we've just discussed, to conformity assessment processes  
5 that are not always in place for every product -- so it  
6 has a highly regulated environment in that sense -- was  
7 not subject to a large amount of enforcement energy.  
8 Which might sound slightly counterintuitive but,  
9 actually, reasonably well regulated businesses, notify  
10 bodies doing a prescribed job, and fairly well informed  
11 people purchasing, were locked into a fairly robust  
12 supply chain.

13 I'm not saying any of that was simple or there  
14 weren't challenges but, compared to other areas that  
15 market surveillance authorities might be responsible  
16 for, PPE wasn't the area, necessarily, that risk  
17 assessment said was where the enforcement effort should  
18 be.

19 When the pandemic broke all three of those things,  
20 so the suppliers were suddenly faced with massive  
21 expansion, new suppliers came in, existing suppliers had  
22 to ramp up their production, if you ramp up production,  
23 quality can fail, there was all sorts of challenges for  
24 suppliers in the UK and globally. Just-in-time  
25 contracts weren't delivered on because of the increasing

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1 clearance or otherwise of non-compliant PPE that is  
2 necessary for protection against Covid-19 to ensure that  
3 it meets health and safety requirements.

4 So was this an urging to really prioritise  
5 processing assessment of PPE so it could reach the  
6 frontline quickly?

7 **A.** Yes, and I think what is meant in that sentence is that  
8 market surveillance authorities, particularly local  
9 authorities in this context, although HSE in this  
10 letter, aren't only responsible for PPE, and what we're  
11 saying is: because of the nation's needs for more PPE to  
12 reach the frontline, we would like you to prioritise  
13 that in your work.

14 **Q.** Thank you. We can take that down.

15 In March and April of 2020, did OPSS observe any  
16 specific challenges, either that it itself was  
17 encountering or that HSE or other market surveillance  
18 authorities were experiencing in relation to this market  
19 surveillance work?

20 **A.** I'm not totally sure I understand how wide you want me  
21 to take my answer to that question.

22 **Q.** Well, let's focus in on businesses importing PPE to  
23 the UK, and ensuring that that was compliant. Were  
24 there any specific challenges around that?

25 **A.** Okay. You'll have to stop me if I go too wide on this.

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1 demands, some countries put export bans on -- there's  
2 all sorts of things about the supply that really  
3 massively changed.

4 The notified bodies did not have enormous capacity  
5 to suddenly expand their activity. It's capital  
6 intensive, it's highly skilled, you can't simply say,  
7 "Let's do 100 times as much as we did yesterday."

8 And the people purchasing the products were not  
9 simply those highly experienced, highly competent people  
10 that they had been. At a national level, at a regional  
11 level, and even at a local level, people had a scramble  
12 for these products.

13 So those three things all changed at the same time.  
14 None of those were in anyone's control. And so the  
15 regulatory effort that was necessary to avoid the unsafe  
16 PPE that began to flood into the market reaching the  
17 front line was significant.

18 And so the -- to answer your question directly, the  
19 regulators, yes, faced in -- I think you said in March  
20 and April, but I wouldn't limit it to that -- faced  
21 enormous challenges in trying to get safe PPE. There  
22 was massive public demand. The government was very  
23 aware of that, ministers were very aware of that. We  
24 need to make sure that people working in these highly  
25 dangerous situations are not being exposed to

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1 unnecessary risk. But at the same time we have people  
2 wishing to supply, sometimes with good intent, sometimes  
3 with bad intent, products that will not make those  
4 people safe. And so holding those two things in that  
5 situation, which was evolving obviously on a day-by-day  
6 basis was the regulators challenge.

7 **Q.** So the pandemic and the ramp-up of production and sale  
8 of items that were presented as PPE, it represented an  
9 enormous stress test on the regulatory systems, didn't  
10 it?

11 **A.** Yes.

12 **Q.** And in your view, were the regulatory systems prepared?  
13 Were they in a good place to face all of that when,  
14 finally, the markets were disrupted in this way and PPE  
15 became a much more commonly available item?

16 **A.** I can speak with more confidence about OPSS than I can  
17 with others, to answer that question. We were created  
18 in 2018 and we were literally in a growing phase at this  
19 point. We had just started to build incident management  
20 capability, and I know that we've learnt a lot of  
21 lessons from this pandemic which is now in our incident  
22 management planning. And so the short answer, had we  
23 done that before, the answer was no, so therefore we  
24 were not as well prepared as we could have been.

25 I think that other regulators are in different

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1 The second is that in our work with other national  
2 regulators, sharing incident management approaches,  
3 building coherence between them, recognising the things  
4 like the regulators coordination committee that worked  
5 well and building that into our thinking, I think  
6 that's -- I think that's put us in a stronger place.

7 And I think the third is just the culture that we  
8 all have, that we've learnt from experience, I think is  
9 in an important part of our thinking going forward.

10 Regulation isn't just about processes and laws; it's  
11 about how professional people bring their culture and  
12 their values to the work they do. And those things were  
13 not just in the regulatory field, but those things were  
14 challenged in the pandemic. We had to change our ways  
15 of working, and that -- those are lessons that are  
16 learnt at a personal level just as much as at an  
17 organisational level.

18 **Q.** In terms of collaboration, of working together, I'd like  
19 to ask you about two specific working groups that OPSS  
20 was involved with. The first was the Decision Making  
21 Committee and the second the Regulatory Co-ordination  
22 Cell. So the Decision Making Committee, the DMC, was  
23 a DHSC, Cabinet Office and NHS England committee, and  
24 its primary purpose was to provide decisions as to  
25 whether a specific product met essential health and

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1 places and, you know, would have different answers to  
2 that. The other area, I think, is the coordination of  
3 market surveillance activity. Going back to my Lady's  
4 question about the complexity of the system, one of the  
5 ways of resolving complexity is good coordination, and  
6 I think we built systems very quickly in those early  
7 weeks, which again might be taken to say that we didn't  
8 have them in place beforehand.

9 **Q.** Should they have been in place beforehand, do you think?

10 **A.** That's a really difficult question to give a one-word  
11 answer to, because it's very easy to say "Yes, here is  
12 a problem, we should have been ready for it." But we  
13 have to risk base all our prioritisation decisions, and  
14 you can't be ready for everything. I would hope --  
15 I think I'll answer it this way, if I may -- I would  
16 hope that we're more ready now than we were then.

17 **Q.** What is the basis for that hope, if I may ask? What has  
18 is being done now to ensure that the coordination  
19 between regulators, and indeed OPSS itself, is in  
20 a better position?

21 **A.** So I think there's a number of things, probably three  
22 main things. The first is that we, as OPSS, have a much  
23 more robust incident management approach which was built  
24 prior to 2020 but was definitely expanded in 2020 and  
25 has continued to be developed since then.

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1 safety requirements.

2 What was OPSS's involvement with that working group?

3 **A.** So this is the higher-level, cross-government,  
4 effectively, cabinet advice group. And we facilitated  
5 that, we both brought information to it and took actions  
6 away from it. We connected that group with others  
7 particularly around technical, regulatory and scientific  
8 expertise.

9 I think it's correct -- well, I know it's correct to  
10 say that that group did not assume regulatory authority  
11 for decision making. So, in that sense, regulators came  
12 to the DMC with questions or questions were brought for  
13 them to answer, but it remained the responsibility of  
14 the relevant market surveillance authority as to whether  
15 a product was -- if approval was necessary, whether  
16 a product was proved.

17 **Q.** And is it right that in April 2020 OPSS raised a concern  
18 that the DMC was working too slowly?

19 **A.** I'm not saying we didn't. I don't have a specific  
20 recollection of that actual statement but we were  
21 certainly very keen that the processes moved as quickly  
22 as possible.

23 **Q.** And what was slowing processes down?

24 **A.** In the DMC?

25 **Q.** Yes.

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1 **A.** I think it was really important that -- for any policy  
2 or for any policy decision you want to hear a wide range  
3 of voices. You want proper consultation to occur. You  
4 want, you know, particularly across government, there  
5 are different voices from DHSC, the Health Department,  
6 Treasury, my department, Business. They all have  
7 different perspectives. And that's right. But in  
8 a time of pandemic, you also want decisions to be made  
9 quickly, and I think getting that right sweet spot  
10 between hearing people but making decisions quickly,  
11 I think we probably were -- were probably trying to push  
12 for decisions to be made more quickly.

13 **Q.** All right. We'll turn to the Regulatory Co-ordination  
14 Cell. This was established on 29 April 2020, and it  
15 brought together OPSS, HSE, HSE Northern Ireland, and  
16 the MHRA; is that right?

17 **A.** Yes.

18 **Q.** And what was the purpose of that group?

19 **A.** This group arose out of -- almost from day one we'd been  
20 having conversations with those organisations on  
21 specific topics, and effectively the group -- we decided  
22 to create it as a group and give it a little bit of  
23 a sort of secretariat and governance role but, actually,  
24 it grew out of existing conversations and those  
25 conversations were at a pragmatic level, if you like,

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1 you have the MHRA, with a different remit, of course, to  
2 the Health and Safety Executive, and they have different  
3 enforcement powers, and then OPSS has its own  
4 enforcement powers. You've talked about the sharing of  
5 market intelligence, you've talked about strategic  
6 objectives having to be shared, conversations having to  
7 be had. Does that all arise from a fragmented system?

8 **A.** I think when we think about any regulatory system there  
9 will always be boundaries and there will always be  
10 connection points. And as I said earlier, the fact that  
11 products can be used by different people in different  
12 places for different purposes, where regulation is  
13 intended to mitigate a given risk, means that you will  
14 always have to bring together those different purposes.

15 You can brigade all them together into one  
16 regulator, but all you've done is brought those  
17 conversations into the regulator, you haven't changed  
18 the need for the conversations. And you will always  
19 have a boundary. So if you had a PPE regulator, you  
20 would still have the boundary between where those  
21 products interface with consumer products that are or  
22 aren't defined as PPE. You will always be able to find  
23 the boundary and that boundary can be called  
24 fragmentation.

25 So in that sense, whether it's over complex or over

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1 a tactical level around deployment, resources,  
2 challenges, what different regulators were seeing.

3 It was -- from our point of view, it was our way of  
4 discharging our responsible for coordination of market  
5 surveillance around PPE and medical devices. But  
6 I think everybody saw the value, and it was meeting  
7 incredibly frequently in those early days. Everyone saw  
8 the value in having a place where things could be  
9 discussed.

10 Again, this was not making decisions on behalf of  
11 a market surveillance authority. At every point it is  
12 the market surveillance authority that is given the  
13 statutory powers to make decisions, and having a group  
14 or committee enables conversations to be held, enables  
15 ideas to be kicked around but it doesn't discharge that  
16 decision-making responsibility.

17 **Q.** Was it necessary to bring all these disparate parties  
18 together, because responsibility for regulating PPE was  
19 fragmented and quite complex?

20 **A.** I think if we accept that it's fragmented and quite  
21 complex, then that's a good reason to bring the parties  
22 together. So I'm not quite sure if I've answered your  
23 question.

24 **Q.** Do you accept that the regulatory landscape was, at the  
25 time, fragmented and complex? You've already described,

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1 fragmented, I think is a more difficult question than  
2 whether it's complex and fragmented. What I would say  
3 is that the way you resolve those things is through good  
4 use of data, good use of coordination, shared objectives  
5 across regulators and good communication, and I don't  
6 think that's specific to this question of PPE.

7 **LADY HALLETT:** Can I just challenge you, if I can. You  
8 seemed to be more ready to accept it when Ms Shehadeh  
9 challenged you, but I'll take that.

10 If you have -- let's take a mask and if you're going  
11 to have two regulators looking at whether or not it  
12 should be authorised, they're going to have to look at  
13 the design, they're going to have to look at the  
14 efficiency, so are you not risking duplication if two  
15 different regulators are saying: "Right, well, this mask  
16 keeps germs in or keeps a virus in or bacteria in, and  
17 it stops them from going out as well", if you've got two  
18 different regulators, one looking at does it stop bugs  
19 going in and one regulator looking at does it stop bugs  
20 going out, doesn't that necessarily have a duplication  
21 of effort or does that not arise?

22 **A.** I think two things, if I may, my Lady.

23 **LADY HALLETT:** I'm sorry to use such a simplistic example.

24 **A.** No, no, no, I don't want to trivialise it either by my  
25 example, so that's why I'm just taking a moment.

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1 If that mask was also used in a bakery where there's  
2 big issues with dust in the air and PPE required for  
3 that, then where do you draw your line? Do you say, at  
4 the moment we have that mask regulated for PPE by the  
5 HSE and we have it regulated for medical devices by the  
6 MHRA, and there's the line that you've described. If we  
7 have it regulated in the healthcare setting by one  
8 person because it was managing two risks, you would  
9 still have a line for its use elsewhere. So that's why  
10 I said you can't avoid fragmentation; the question is  
11 where you put the lines and how you manage that.

12 I think the second thing, and I'm possibly a little  
13 bit on the edge of my knowledge here, is that I suspect  
14 the risks you're describing are rather more complex than  
15 you or I know, and it isn't necessarily simple to say,  
16 "Let's have a device that protects the patient and the  
17 user".

18 My understanding is that those dual-use products are  
19 not highly prevalent, that actually products are  
20 understood, but one of my recommendations would have  
21 been that I think we could, either in statute or in  
22 guidance, provide for that situation.

23 I'm advised that it's not a problem in working, but  
24 clearly in the pandemic where people who were not used  
25 to working in that situation had to make decisions.

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1 clarity to that question. I don't, from my reading of  
2 the file, I don't think it was a frequent and prevalent  
3 question, but it was a question.

4 **Q.** Let's move on to sector business guidance for PPE that  
5 was published by the OPSS during the pandemic. OPSS  
6 published a number of different pieces of guidance.  
7 There was guidance for high-volume manufacturers; is  
8 that right?

9 **A.** Yes.

10 **Q.** There was also guidance for those who were supplying  
11 items for use by the NHS?

12 **A.** Mm-hm.

13 **Q.** And there was guidance for small-scale manufacturers.  
14 Each of these pieces of guidance was updated several  
15 times during the course of the pandemic, wasn't it?

16 **A.** Mm-hm.

17 **Q.** So returning to the guidance for high-volume  
18 manufacturers, that was updated I think some seven times  
19 between 2 April 2020 and 7 September 2020. Is that  
20 about right?

21 **A.** I think so.

22 **Q.** And the guidance for small-scale manufacturers, between  
23 2 July 2020 and September 2020, there were four versions  
24 of that guidance; is that right?

25 **A.** I think so.

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1 This was one of the things that they found challenging  
2 and I think we could have -- that could be clearer.

3 **LADY HALLETT:** Sorry, the recommendation would be for  
4 dual-use products? In other words, let's again use the  
5 mask, a mask designed to protect the wearer and the  
6 patient. So a mask to be used in a healthcare setting  
7 designed to protect the wearer and the patient. What,  
8 that basically there should be provision for there just  
9 to be one regulator for a dual-use product?

10 **A.** My recommendation would be that there should be clarity  
11 on how that product is brought to market so it is  
12 absolutely clear in the labelling and the bringing to  
13 market of that product what it is being designed for  
14 and, for example, that might allow -- we now call them  
15 an approved body since we left the EU, but a notified  
16 body, approved body might then be able to bring that  
17 together into one approvals process, for example.

18 **LADY HALLETT:** Sorry to interrupt.

19 **MS SHEHADEH:** Not at all.

20 During the existence or during the working life of  
21 the Regulatory Co-ordination Cell, were there  
22 discussions between regulators as to whether products  
23 were dual use in that way, and which regulator should  
24 take the lead on a specific item?

25 **A.** There were. Yes. And there was some attempt to bring

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1 **Q.** Why did this guidance have to be updated so many times?

2 **A.** In a sentence, because it had to be authoritative, and  
3 the facts were changing -- or sorry, as a nation, our  
4 understanding of the facts were changing.

5 In normal times, guidance should be consistent and  
6 authoritative and changed infrequently because change  
7 has an impact on producers. You know, they have to get  
8 to know the new guidance, they have to work out what  
9 they need to do to change, they have to implement that,  
10 that all costs money, and it probably reduces compliance  
11 while they're making those adjustments and so it's not  
12 a good thing.

13 So regulators work hard to -- and it's sometimes why  
14 guidance comes at slowly, you know, to produce guidance  
15 that has a decent shelf life and will give people  
16 authority for as long as possible.

17 The problem here was that what we knew about the  
18 pandemic, what we knew about the disease, what we knew  
19 about control measures, what we knew about the  
20 authorisations that could be given to businesses and how  
21 we could reduce process for them was changing -- in the  
22 periods you've described, was changing very rapidly.  
23 And I think we set out in Sarah Munby's statement for  
24 each of those changes, the rationale behind them.

25 In hindsight, you could look back and say, were each

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1 of those changes necessary? Because sometimes a change  
2 might happen and then a week later, it might change  
3 again. And, of course, if you knew it was going to  
4 change again a week later you wouldn't have done the  
5 first.

6 But we were under a requirement to ensure, as far as  
7 possible, that we made it as simple as possible for  
8 businesses, large and small, to produce or import safe  
9 PPE. And so giving them guidance that was as clear as  
10 possible and as precise as possible, was part of  
11 responding to that.

12 So it's not just about how often we change the  
13 guidance, there's also, you know, why did we have  
14 different guidance for large and small? Because, as we  
15 got to understand their challenges better, we realised  
16 that their responses were very different, and so we  
17 tried to write guidance that was going to be as useful  
18 to them as possible.

19 **Q.** In terms of large and small, we've heard earlier this  
20 morning that there was tailored help for some of the  
21 high-value manufacturers.

22 **A.** Mm-hm.

23 **Q.** Did OPSS have a role in assisting high-volume  
24 manufacturers at the direction or suggestion of Cabinet  
25 Office?

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1 seeking to understand that, in concert with, in that  
2 case, the Health and Safety Executive, was part of  
3 working with the businesses.

4 So yes, I hope that it helped those businesses to  
5 navigate their way through, but I also know that it  
6 helped us to understand.

7 **Q.** So these were the top ten businesses that were producing  
8 items such as eye protection, gowns, hand sanitiser, and  
9 so on.

10 **A.** Mm-hm.

11 **Q.** Would you have expected the top ten businesses involved  
12 in this to be familiar with the regulations and the  
13 processes and perhaps not to require the assistance of  
14 OPSS?

15 **A.** If I'm correct, these are the top ten businesses seeking  
16 to come into the market rather than the top ten  
17 businesses in the market.

18 **Q.** I see. These are new entrants to the market?

19 **A.** As I understand it.

20 **Q.** And you've told us about attempts made to assess whether  
21 the processes could be simplified. I'd like to ask you  
22 about a different now, and that is Operation Safeguard  
23 and the work done around enforcement?

24 Operation Safeguard was an enforcement operation at  
25 UK ports established in May 2020 to provide more support

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1 **A.** Yes, in at least two ways. So one was working with  
2 organisations like PPE Make and others, where they were  
3 in touch with suppliers or potential suppliers to try to  
4 help work through the system, because as has been  
5 identified, PPE is complex and technical. So we did  
6 that. But also, specifically, we were asked by Cabinet  
7 Office to work with ten businesses identified, I think,  
8 by Deloitte. This was in the fairly early stages, and  
9 I think, in some ways, it sort of preceded some of the  
10 thinking that PPE Make then took forward, and the idea  
11 was to try and establish, by working with these  
12 businesses, whether we could, I guess, do three things,  
13 really: one was whether we could help them to map their  
14 way through the regulatory process. The second was  
15 whether we could help other businesses to do the same,  
16 as a result of learning from them; and then the third  
17 was if we could, as an organisation, better understand  
18 what the regulatory challenges were. And then put that  
19 understanding through this filter, is this "It's really  
20 hard to deliver the essential health and safety  
21 requirements?" That is just really hard. How do you  
22 help them deliver them? Or, actually, this isn't an  
23 essential health and safety requirement, it's something  
24 that could be, in some way, eased.

25 And I think putting them through that filter and

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1 to local authority Trading Standards teams, because  
2 there was a significant influx of non-compliant PPE  
3 arriving at UK points of entry; would you agree with  
4 that so far.

5 **A.** Yes. Yes. It was building upon existing activity for  
6 that purpose.

7 **Q.** And the idea was, of course, to prevent potentially  
8 unsafe or non-compliant PPE from entering the consumer  
9 market and circulating around the UK?

10 **A.** Not just the consumer market. The workplace market as  
11 well.

12 **Q.** The workplace market as well. Thank you.

13 Is it right that Border Force invited OPSS to assist  
14 them specifically at Heathrow Airport?

15 **A.** Yes. The reason I pause slightly is, prior to the  
16 pandemic, there were existing activity sets at ports and  
17 at borders. OPSS had taken responsibility for  
18 organising and funding the work of local authorities  
19 quite recently before that, and therefore there were  
20 local authorities present at Heathrow.

21 Border Force are the border authority and have the  
22 statutory mandate, and they then make, although it  
23 doesn't quite look like this on the ground, it's  
24 actually Border Force that are making the referral to  
25 the local authority or whoever that might be, the market

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1 surveillance authority. Border regulation is  
 2 a regulatory set in itself.  
 3 **Q.** And what was the OPSS role in relation to Operation  
 4 Safeguard?  
 5 **A.** So we were responsible for bringing together and  
 6 coordinating the activity that was required, using  
 7 intelligence to prioritise and deliver resources, which  
 8 did include OPSS staff at some points when there wasn't  
 9 sufficient resource from other regulators. And  
 10 essentially, using a database to identify where the  
 11 challenges are arising, and then to deploy resources to  
 12 seek to detect and deter that activity, which at that  
 13 level is exactly the same as we do all the time, it's  
 14 just that there were specific increases in volumes, and  
 15 specific increases in patterns. And in normal times --  
 16 so the system works on a profiling system where you look  
 17 at what the challenges are, which are the products that  
 18 are likely to be dangerous, which are the suppliers that  
 19 might be presenting a particular risk, and you put that  
 20 into a database.

21 PPE wouldn't necessarily feature as a high-risk  
 22 product for the reasons I alluded to earlier, but  
 23 clearly, the demand in the UK from customers, from  
 24 workplaces, from the worried people, in principle not  
 25 from the NHS because in principle the NHS purchase

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1 imports was at airports first because obviously you  
 2 don't have the lag in supply, and then over weeks it  
 3 then moved into more traditional sea-based supply.

4 Products like PPE are not normally supplied by air  
 5 because the value doesn't justify that, but there was  
 6 a spike in air, which we saw at those airports,  
 7 including East Midlands where the major parcel activity  
 8 is, and then over time it then moved, particularly to  
 9 Felixstowe but others, also to other ports, but also by  
 10 that time, the intelligence profiles were clearer and we  
 11 were able to work with the local authorities to carry  
 12 out that work.

13 And then HSE and MHRA would respond to referrals  
 14 where necessary, either to do checks or to confirm  
 15 conformity of product.

16 **Q.** All right, thank you very much for that.

17 I just want to move on to a specific issue that was  
 18 raised by the British Safety Industry Federation. Is it  
 19 right that the British Safety Industry Federation, which  
 20 is the trade body that represents suppliers of PPE in the  
 21 UK, raised an issue and said that the market was still  
 22 awash with non-compliant respiratory protective  
 23 equipment, raised this issue with the Health and Safety  
 24 Executive but the OPSS was made aware of this. One of  
 25 the issues highlighted by the British Safety Industry

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1 should be through the separate track, but we can't say  
 2 what happened in every hospital and every care location.  
 3 That increase in demand very quickly led to people,  
 4 for good and bad motivation, seeking to bring those  
 5 products into the UK. And that was visible through  
 6 patterns of trading. So, for example, I remember at  
 7 Doncaster airport, which had relatively small amounts of  
 8 freight, there was an uptick in freight and almost all  
 9 of it was PPE.

10 **Q.** Sorry to cut in. So OPSS was able to spot those trends,  
 11 spot those peaks in activity, and liaise with Trading  
 12 Standards and local enforcement teams to assist them  
 13 where they should --

14 **A.** Yes.

15 **Q.** -- be concentrating their efforts; is that right?

16 **A.** So in that particular example, I think it was actually  
 17 the local authority that had become aware of that  
 18 change. They asked us whether we could work with Border  
 19 Force and others to deploy resource, and we then put  
 20 that through the intelligence system and resource was  
 21 deployed, and that was dealt with.

22 But that was very obvious because it's a spike in  
 23 behaviour. It's a little bit more difficult to see that  
 24 same pattern at Heathrow or at Felixstowe, which is the  
 25 principal seaport. And what happened was the spike in

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1 Federation was that their members were seeing others  
 2 selling non-compliant PPE without sanction, and that  
 3 most causing them to lose market share but, of course,  
 4 it was causing a loss of confidence.

5 Would you accept that there were sellers of  
 6 non-compliant PPE that were acting without being  
 7 sanctioned by any authority with enforcement powers  
 8 during the pandemic?

9 **A.** It was certainly the intention to locate and sanction  
 10 anyone who was supplying non-compliant material,  
 11 including PPE. I think what BSIF are referring to  
 12 there, and we had -- that referral came through HSE in  
 13 the way you've described, but also they came to one of  
 14 our business reference panels and said something  
 15 similar. We were conducting virtual business reference  
 16 panels to understand business needs at the time.

17 And I think they were probably talking about more  
 18 than one stream of activity. So one stream was  
 19 businesses that were not following the regulatory  
 20 process or were not waiting for the completion of the  
 21 regulatory process, and/or were using non-genuine --  
 22 they were very concerned, I remember, about fraudulent  
 23 certificates being used. So that, in a sense, was that  
 24 one stream.

25 They were also concerned about what we've just been

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1 talking about, about imports that were not being checked  
2 at the border of entirely non-compliant and potentially  
3 unsafe material.

4 **Q.** Can I ask you this: they used the phrase "awash with  
5 non-compliant PPE"; in your view, was OPSS and were the  
6 enforcement authorities actually winning the fight  
7 against non-compliant PPE entering the UK markets?

8 **A.** The way that the regulatory system works in the UK  
9 outside of what we've been talking about earlier for the  
10 prescribed items, the way that it works is that most  
11 items do not need to go through a check before they're  
12 put on the market. We don't have a border protection in  
13 that way, where every item coming into the UK is looked  
14 at. So therefore there is no data on how many items of  
15 non-compliant PPE were available on the market in the  
16 UK. Neither do people, you know -- so in that sense  
17 I can't answer your question because I can't say what  
18 ratio there was.

19 What I can say is that we took those remarks very  
20 seriously. That's partly why we ramped up the  
21 prioritisation around the border and continued to do so  
22 through the pandemic. The other place you look for, for  
23 information to answer your question, is intelligence and  
24 complaints from what people are buying and whether they  
25 are seeing significant issues, and we did not see an

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1 at the Daventry warehouse to ensure that goods were  
2 compliant. What were the main challenges that OPSS  
3 observed in trying to ensure that non-compliant PPE did  
4 not leave that warehouse?

5 **A.** So the Daventry supply route was the supply route for  
6 government-purchased into the NHS front line. It didn't  
7 exclusively use the second easement, but a lot of it  
8 would have used the second easement, and so it became  
9 massively significant in terms of making sure that  
10 hospital settings and NHS settings across the country  
11 were properly protected.

12 We were alerted fairly early on, I think in April,  
13 that there were problems with that supply chain and that  
14 there were blockages occurring there, and we were asked  
15 whether we could assist with understanding what was  
16 going wrong, and also resolving that.

17 So our functions, over time, were, first of all,  
18 that we -- initially in discussions and then, secondly,  
19 with people on site, we tried to identify what the  
20 problem was.

21 **Q.** Yes.

22 **A.** Then we tried to identify who the resources were that  
23 could resolve that, and that would be regulators -- the  
24 HSE were involved very early on, other regulators became  
25 involved -- logistics and decision-making governance.

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1 uptick in people saying, "Oh, I've bought this PPE and  
2 actually it's no good." We didn't have that, we didn't  
3 receive that intelligence.

4 **Q.** All right, thank you. I'm going to briefly move on to  
5 the way that OPSS and the Health and Safety Executive  
6 assisted the DHSC with goods that it procured as part of  
7 the Parallel Supply Chain, and so those are the goods  
8 that were then kept in a warehouse at Daventry before  
9 being distributed onwards to the NHS and social care.

10 Can we have up on screen, please, INQ000477693.

11 Thank you.

12 This table sets out some of the work that was being  
13 done to check the PPE that was held in Daventry.

14 We can see there at the bottom row:

15 "Downstream Processes -- Daventry and VIP/non-VIP  
16 Donations."

17 "A hub has been created at Daventry for all PPE  
18 procured by CO/Deloitte in the four streams in the top  
19 row."

20 There was assistance given by:

21 "The Army, HSE and ... OPSS [who all] have  
22 a presence at Daventry to assist with the sorting of  
23 PPE, ensuring documentation is uploaded ... for OPSS  
24 [your organisation]/HSE/MHRA."

25 There was a great deal of work being done physically

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1 We then resolved those problems and, in resolving  
2 them, created a proof of concept of how they could be  
3 resolved in future, and then wrote processes that would  
4 enable that to be done. So it wasn't just a matter of  
5 resolving that backlog, but how do you avoid that  
6 happening.

7 Part of that was data gathering, and we created  
8 a secure share point site that other regulators and  
9 logistics handlers could use so that the information  
10 could flow more freely about what could be approved and  
11 what couldn't.

12 I think one of the problems was that, because of the  
13 things we've talked about earlier, about the expansion  
14 in supply and the challenges with getting those products  
15 approved, products that couldn't be immediately approved  
16 were forming, if you like, a barrier to other products  
17 flowing through. Because previously product had flowed  
18 through quite smoothly. So there were products that  
19 couldn't be approved. There were also products that  
20 could be approved but people didn't know they could, and  
21 HSE gave some very helpful clarity on CE marked products  
22 and things like that, started to break that down.

23 But what really had to happen was that those  
24 blocking products, if you will, had to be moved so that  
25 products that could flow through quickly did so, and

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1 then the blocking products needed to be cleared as  
2 quickly as possible. But it did vary enormously how  
3 easily that could be done. It might be that additional  
4 information could be sought, additional certification,  
5 confidence in testing.

6 For some products there was testing to be arranged  
7 through approved bodies. For some products, there was  
8 reworking that was necessary. That wasn't really very  
9 prevalent in this case because of the time lags. For  
10 some products it could be deployed to other uses with  
11 a lower hazard context, and for other products, they  
12 couldn't be released.

13 But all of that segmentation had to be done and then  
14 the logistics that followed from that had to happen.  
15 And that was really what we were about, was that  
16 coordination.

17 And I think the reason we were there was  
18 a combination of technical expertise, role of market  
19 surveillance coordination, but also, as part of  
20 government, we were very conscious of the problems that  
21 were being caused by these blockages.

22 So we deployed quickly to that, and then having done  
23 that and built that capacity through training others, we  
24 then handed that over relatively quickly, although  
25 I note my team think it took us too long to hand it

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1 their witness statement to the Inquiry are not in favour  
2 of a lead regulator. Neither, it appears, is the MHRA.

3 Given your oral evidence to us this morning, it  
4 doesn't appear that you necessarily are. But can I just  
5 ask you for your response to that recommendation:  
6 "a 'lead regulator', with clear definitions around ...  
7 roles of regulators" around products specifically in  
8 times of crisis, like a pandemic.

9 **A.** Yes. It's -- we've alluded to this a little already.  
10 It's not a simple question with a simple answer.

11 The comment I made earlier about dual-use products  
12 was a specific comment about those products, which are  
13 fairly narrow and defined. And I think there is grounds  
14 for greater clarity in how those products are both  
15 placed on the market and also approved.

16 But I think "lead regulator" here is quite a lot  
17 wider than that. And the challenges -- and this is  
18 something, you know, we get asked to comment on not just  
19 in the UK but around the world, it's a live question --  
20 the challenges are that you want regulators who are  
21 competent and agile and flexible, and have sufficient  
22 scale to be able to deliver the regulatory activity  
23 that's needed at a given point in time.

24 And small, focused regulators set up for this  
25 purpose and this purpose, don't have those features, and

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1 over, but I think we handed it over quite quickly. And  
2 then we -- but then we continued. There were some  
3 problems that happened in July, I think, and through  
4 into August, September, where we then coordinated  
5 efforts of regulators to resolve those things.

6 **Q.** All right, thank you for that detailed explanation.

7 I just want to ask you to take a bit of a step back and  
8 offer some reflections.

9 You've already discussed what you foresee as  
10 difficulties with trying to, particularly around  
11 dual-use items, ensure that there is a third regulator  
12 or some sort of different responsibility.

13 Can I just put to you, there's a recommendation  
14 that's featured in the Boardman Review, and we have that  
15 at INQ000055876, at page 6. Recommendation 26.

16 Nigel Boardman, as you may know, carried out  
17 a review of a number of aspects of government response  
18 to the pandemic. Regulation 26 of his report was that:

19 "Regulation in the health sector needs a clear  
20 structure and the Government should encourage the [NHS]  
21 and regulator community to consider appointing a 'lead  
22 regulator' with clear definitions around the roles of  
23 regulators to make final decisions regarding products in  
24 times of crisis."

25 To be clear, the Health and Safety Executive in

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1 can tend to give you a-- can tend to not give you the  
2 flexibility you need.

3 There are reasons why you want regulators to look at  
4 problems, and deliver outcomes. And to be honest, from  
5 the -- you know, we looked at this at the time, and the  
6 RCC, the Regulatory Co-ordination Cell, looked at this  
7 and discussed it, and we've looked at it since, and I've  
8 looked at it in preparation for today, and I'm not  
9 entirely sure that I fully know -- if what is being  
10 suggested here is structural change to create  
11 a regulator for -- well --

12 **Q.** The recommendation is to appoint a lead regulator.

13 **A.** Yes.

14 **Q.** So for a regulator to take the lead and to take  
15 responsibility for making final decisions on those  
16 specific products needed during a pandemic.

17 **A.** Yes. And as I say, I think there's -- I think there's  
18 a role for regulators to be well coordinated and for  
19 regulators to know who's in charge in a given situation,  
20 and for everyone else to know that. And that's why, in  
21 response to my Lady's questions earlier, I said for that  
22 narrow facet of a dual-use product, then, yes, I don't  
23 think either -- in any sensible times you would want:  
24 get it cleared by this agency and then go to someone  
25 else and start again. And if you can bring that

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1 together, if that's what we mean by a lead regulator,  
2 that has some value in that narrow context.

3 But, to me, what is most important is that you have  
4 good protocols, good coordination, good use of data, so  
5 that regulators can act as one. And so that, to the  
6 business community, or the supplier community, they are  
7 presenting as one.

8 Now, whether you do that through a single point of  
9 contact is a matter of debate, but that's the --

10 **Q.** Can I just jump in there. I'm very conscious of time.

11 Some might be listening to your evidence and might  
12 be thinking: well, regulators are brought together in  
13 various ways through various means during the pandemic.  
14 Shouldn't there just be one regulator that subsumes the  
15 roles of both, at least with responsibility for items  
16 that we know are going to be needed in a health or  
17 hospital care setting? What would be your response to  
18 that?

19 **A.** I don't think that would be the most flexible solution.

20 There's a principle in regulation called the risk reflex  
21 response, which is a nice way of saying that we too  
22 often design solutions for the last thing that happened,  
23 and the danger is that we create a regulator that would  
24 have been the perfect regulator, perhaps, for this  
25 context, but the next context, even in a health setting,

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1 would be, I'm sorry.

2 **LADY HALLETT:** It sounds like it might well be the kind  
3 we're concerned with. And would that involve more than  
4 one regulator, do we think, that process?

5 **A.** I think what they would be thinking about where there is  
6 PPE.

7 **LADY HALLETT:** Right, and would that have involved more than  
8 one regulator?

9 **A.** It shouldn't do.

10 **LADY HALLETT:** How long did it take to get approval for face  
11 masks during the pandemic?

12 **A.** The figure they cited was two to five weeks, I think it  
13 was two weeks to start with but then they got quite  
14 a lot of failures and it was five weeks by the time they  
15 had sort of managed to eliminate that.

16 **LADY HALLETT:** Right. Thank you.

17 Mr Weatherby.

18 Mr Weatherby is just there.

19 **Questions from MR WEATHERBY KC**

20 **MR WEATHERBY:** Thank you very much.

21 Mr Russell, I ask questions on behalf of the Covid  
22 Bereaved Families for Justice UK group. Just a few  
23 questions from me. You've touched upon my first point  
24 already, which is about planning, and you indicated that  
25 OPSS had done some work on incident management

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1 will be different. And as the example I gave earlier  
2 hopefully illustrated, if you say that this mask is  
3 regulated by this agency if it's going to a hospital and  
4 a different agency if it's going to a bakery, you  
5 haven't actually created a non-fragmented system. And  
6 you haven't necessarily given a better healthcare  
7 outcome, either, because you've got the business then  
8 dealing with two different regulators, possibly giving  
9 different requirements.

10 You will always have fragmentation, and you can't  
11 avoid fragmentation simply by redrawing the lines.

12 **MS SHEHADEH:** Thank you.

13 My Lady, I am conscious that there are questions  
14 from others but I have dealt with all --

15 **LADY HALLETT:** Thank you. I can just follow up that last --  
16 you told me fairly early on in your evidence,  
17 Mr Russell, that a face mask, I assume by that you mean  
18 the kind we're talking about in a healthcare setting, or  
19 just a face mask --

20 **A.** Yes, my Lady.

21 **LADY HALLETT:** -- normally takes 12 weeks, you said. So  
22 what kind of face mask were you talking about?

23 **A.** That was information from BSI regarding -- before the  
24 easement regarding face masks, that's right, took 12  
25 weeks. I don't have information which face mask that

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1 capability, but it hadn't come to fruition before the  
2 pandemic. Have I understood that correctly?

3 **A.** I think it matured significantly through, and after the  
4 pandemic.

5 **Q.** Yes. So I think it follows from that that you would  
6 accept that it would have been better, had you had  
7 contingency planning in place prior to the pandemic?

8 **A.** I think we could have had better contingency planning,  
9 yes.

10 **Q.** Yes. Well, what contingency planning was there, given  
11 the evidence that you've given? You've indicated that,  
12 in real time, your activities developed via the  
13 easements, and you have put various matters in place  
14 which I'll come to in a minute, but what contingency  
15 planning was there at all?

16 **A.** In OPSS?

17 **Q.** Yes.

18 **A.** Yes, so we had an incident management plan which  
19 involved -- non-specific to PPE or the pandemic, we had  
20 an incident management plan which involved protocols for  
21 how we worked as an organisation, how we deployed  
22 resources, and also how we worked with others, I think  
23 particularly at that stage it focused on how we worked  
24 with local authorities, but also with other national  
25 regulators, and it looked at how we made decisions and

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1 how we both escalated and de-escalated our incidents.  
 2 So a classic incident management plan.  
 3 But it was, having only been around for two years,  
 4 it was in its early stages of development.  
 5 **Q.** Yes.  
 6 **A.** The pandemic taught us a number of lessons about that  
 7 which have now influenced it.  
 8 **Q.** Yes, so some contingency planning but could have been  
 9 better?  
 10 **A.** Yes.  
 11 **Q.** Given that the OPSS was formed in 2018, you've given  
 12 that as a reason why it wasn't as developed as it might  
 13 be but, of course, the work of the OPSS hadn't been  
 14 invented in 2018, had it? So do you think it might have  
 15 been possible to have been more developed with your  
 16 contingency planning by the onset of the pandemic?  
 17 **A.** Before 2018, product safety regulation in total was  
 18 delivered by local authorities. And one of the reasons  
 19 why the OPSS was set up was because that had  
 20 a consequence, in terms of things like this, the ability  
 21 to bring a national level of resource to a problem.  
 22 **Q.** Yes. Okay. All right. I'll move on.  
 23 Could we have up INQ000477692, please.  
 24 And this, I'm moving on to Daventry, and as you've  
 25 told us, Daventry was a distribution centre during the

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1 Then, moving up, there's a helpful response from the  
 2 staff member, and then Sarah Smith says:  
 3 "Thanks ... for the speedy and positive response."  
 4 This is at the top of page 2.  
 5 "Thanks ... for the speedy and positive response.  
 6 "Clearly loads to work through."  
 7 Then going up again to the first page, the top of  
 8 the page:  
 9 "Thanks for your patience."  
 10 "We have [a person] at Daventry this morning doing  
 11 an initial triage and dynamic risk assessment.  
 12 "Our current working assumption is subject to [the  
 13 person's] feedback and the advice today is that we look  
 14 to deploy a team from Monday. We have also been in  
 15 dialogue with [somebody else]."  
 16 Yes?  
 17 **A.** Mm-hm.  
 18 **Q.** So that thread started on 14 April, and the bit I've  
 19 just read out was two days later. I'm afraid I don't  
 20 know what day of the week 16 April was, but it refers  
 21 then to deploying a team the following Monday. So we're  
 22 getting into certainly the second half of April by that  
 23 point.  
 24 **A.** Mm-hm.  
 25 **Q.** Now we know from other evidence -- I think Brigadier

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1 pandemic, where, I think you'll agree, it's where  
 2 screening was carried out to ensure that goods were safe  
 3 for release to the NHS. Is that a fair way of  
 4 putting it?  
 5 **A.** Yes.  
 6 **Q.** Now, I hope it's up on the screen in front of you.  
 7 **A.** Yes.  
 8 **Q.** This is an email thread, and I want to start at page 2,  
 9 the bottom of page 2. And this is 14 April and it's an  
 10 email from Sarah Smith who was the deputy chief  
 11 executive of the OPSS; yes?  
 12 **A.** Yes.  
 13 **Q.** And it's to another member of staff and it's asking for  
 14 help, second paragraph:  
 15 "We have a situation at the PPE distribution  
 16 facility at Daventry there we need to put some key  
 17 resource on the ground to find out what is going on and  
 18 support decision making by OPSS and others including HSE  
 19 on whether PPE can and should be released for use by the  
 20 NHS.  
 21 "The task is still quite unclear and part of putting  
 22 a good person in there is to see what is needed going  
 23 forward."  
 24 And it goes over the page, but there's nothing more  
 25 that we need to look at on page 3.

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1 Prosser is going to give evidence next week -- that  
 2 Daventry had been up and running since sometime in the  
 3 second half of March?  
 4 **A.** Mm-hm.  
 5 **Q.** So are we seeing here a position where the processes for  
 6 clearance and technical assurance or screening were  
 7 still unclear and with a lack of resource by this point,  
 8 the second half of April?  
 9 **A.** I think, as I understand it, the particular challenges  
 10 that I alluded to that were causing the problem that we  
 11 were seeking to resolve through this action, accumulated  
 12 as the increase in supply occurred into Daventry. So it  
 13 wasn't there under normal times. As more product was  
 14 purchased and supplied, so it came in. But as it came  
 15 in, these four challenges that I alluded to earlier as  
 16 to why things couldn't quickly clear started to  
 17 accumulate.  
 18 And then the solution to that had to be -- and as  
 19 that started to happen, we were then contacted, and  
 20 clearly what you've just then read is the early stages  
 21 of that dialogue.  
 22 **Q.** Yes.  
 23 **A.** But we were seeking to resolve it not only by going  
 24 physically to the location but also working with MoD,  
 25 Cabinet Office, the various other people, to try to

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1 understand what was --

2 **Q.** Yes, I follow that, but what I'm putting to you is that

3 here we are in the second half of April, the facility

4 has been up and running for certainly several weeks.

5 There's a problem, isn't there, with the quality and

6 reliability of screening processes up until that point?

7 Goods presumably are going out to the NHS, and they're

8 not being properly screened?

9 **A.** I don't think that anything you've just said indicates

10 that goods were going out that weren't properly

11 screened, no.

12 **Q.** Right. Well, can you correct me? Can you put me right?

13 If what I've just read out to you -- I mean, effectively

14 your office is scoping and trying to provide resources

15 to screen materials which comes primarily from new

16 suppliers, and is potentially problematic, and it isn't

17 being done. So which part of what I've put to you isn't

18 right?

19 **A.** So the problem that we were seeking to address, and that

20 is being alluded to in those emails, is a problem of

21 blockage of supply not coming through, rather than any

22 suggestion of unsafe supply being made.

23 The procedures for ensuring conformity were in place

24 before the pandemic and, subject to the easements, were

25 in place during the pandemic. But the problem that we

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1 It's looking at, is there a reason why this item has

2 been detained?

3 **Q.** Yes, I follow that, but can you --

4 **A.** Sorry, and that --

5 **Q.** -- (overspeaking) --

6 **A.** -- that would follow from the deployment which we made

7 on the dates that you said, was it 16 April and --

8 (overspeaking) --

9 **Q.** Right. So this is a pre-screening, if you like, to work

10 out what needs to be looked at and what doesn't; is that

11 a fair way of putting that?

12 **A.** I don't think it's a pre-screening.

13 **Q.** Well, how would you describe it?

14 **A.** It's a consideration of material that has been detained

15 to identify whether and how it can be released.

16 **Q.** Well, the Sarah Munby statement which I've just

17 paraphrased indicates that it checks for consideration

18 as to whether further testing would be needed.

19 **A.** That's right.

20 **Q.** Yes.

21 **A.** So if, as I -- as I said fairly quickly, earlier, if

22 a product had been detained, then there were various

23 ways that that could then be released.

24 **Q.** Yes.

25 **A.** It might be documentary checks could be clarified; it

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1 were tasked to resolve was the combination of those

2 factors and the change in those processes was leading to

3 product not coming through Daventry fast enough and

4 there becoming a backlog, as opposed to a suggestion

5 that unsafe items were being released.

6 **Q.** Well, I'm not going to take that any further. I've put

7 the point to you, and you've answered it.

8 Moving on to a final point, that in the corporate

9 statement of Sarah Munby, and just for the record,

10 paragraph 9.29, she states that:

11 "The process at Daventry included a visual

12 inspection by HSE and MHRA to check for discrepancies in

13 the documentation and consideration as to whether

14 further testing would be needed."

15 Can you help us with when those visual inspections

16 were introduced?

17 **A.** When they were introduced?

18 **Q.** When they were.

19 **A.** So again, those, as I understand it, those activities

20 were designed to address the question of whether this

21 product could be cleared for release into the supply

22 chain.

23 **Q.** Yes.

24 **A.** That is not describing the conformity assessment

25 process, either in normality or under the easement.

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1 might be, you know, that suppliers could be contacted

2 and asked to supply more information, and that would be

3 documentary. It might be that that was not adequate to

4 give the confidence necessary for a release, and

5 therefore testing would be -- would enable you to build

6 that confidence. And so --

7 **Q.** I may have used the wrong term but basically, this was

8 a starting point to determine whether further screening

9 was necessary or not? And it came into being after the

10 dates that we've looked at in the middle of April?

11 **A.** I hope I'm not being pedantic but I'm struggling with

12 "starting point". This is product that has come in

13 through a conformity assessment process, but has not

14 been released, because there have been issues arising

15 from that. So I don't think it's a starting point.

16 **Q.** I wouldn't take it any further.

17 Final point, Ms Munby goes on to say, again for the

18 record paragraph 9.31, that the inbound assurance

19 process "had solidified" by May 2020, and involved

20 Clipper Logistics taking photographs of inbound PPE

21 which would then be sent to OPSS.

22 Is that a process that you're familiar with?

23 **A.** And that's what I was alluding to when I talked about

24 identifying the problem, resolving it, and then building

25 processes that avoided it in the future.

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1 Q. Right. So, following on from what we discussed, the  
 2 process eventually, by May, was that the logistics  
 3 company was taking pictures of some of the PPE, emailing  
 4 it through to your office, and then there would be  
 5 a visual inspection of those photographs?  
 6 A. By us or by the HSE. But just to be clear, this is the  
 7 product that had been detained because there wasn't  
 8 confidence it had conformity. The product where there  
 9 was confidence that there it had conformity assessment  
 10 was flowing through at Daventry. This with not that  
 11 check. This was the check where there was a problem or  
 12 perceived to be a problem and people on the ground were  
 13 saying, "Can we get the regulator to clear this  
 14 particular thing for this reason?"  
 15 MR WEATHERBY: Thank you very much.  
 16 LADY HALLETT: Thank you, Mr Weatherby.  
 17 Thank you very much indeed, Mr Russell. Those are  
 18 all the questions we have for you. It's good to see  
 19 somebody who is such an enthusiast in their field after  
 20 so many years practising in it.  
 21 THE WITNESS: Thank you.  
 22 LADY HALLETT: So thank you very much for your help.  
 23 THE WITNESS: Thank you very much.  
 24 LADY HALLETT: I shall return at 1.50.  
 25 (12.50 pm)

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1 15 September 2021 to July 2022.  
 2 A. (Witness nodded)  
 3 Q. And of possible relevance as we get on to other matters  
 4 in a few moments, you had two stints serving as  
 5 Secretary of State for the Department of Health and  
 6 Social Care, first from 5 July to 6 September 2022, and  
 7 also from 25 October to 13 November 2023.  
 8 A. Correct.  
 9 Q. All right. Thank you.  
 10 Now I want to establish first with you, if I may,  
 11 the role of the CST, which is something that you address  
 12 in your written evidence. It's a ministerial office  
 13 within the government and the second most senior  
 14 ministerial office within the Treasury. That's right,  
 15 isn't it?  
 16 A. It is.  
 17 Q. And that person, for the relevant period you, reported  
 18 to the Chancellor?  
 19 A. Correct.  
 20 Q. Yes. The CST is responsible for public expenditure,  
 21 which includes spending reviews and strategic planning,  
 22 in-year spending control, public sector pay and  
 23 pensions, efficiency and value for money in public  
 24 service and procurement?  
 25 A. (Witness nodded)

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1 (The Short Adjournment)  
 2 (1.50 pm)  
 3 LADY HALLETT: Mr Wald.  
 4 MR WALD: My Lady, our next witness today is  
 5 Mr Steve Barclay.  
 6 MR STEVE BARCLAY (sworn)  
 7 Questions from LEAD COUNSEL TO THE INQUIRY FOR MODULE 5  
 8 LADY HALLETT: I hope we haven't kept you waiting too long,  
 9 Mr Barclay.  
 10 A. Not at all, my Lady.  
 11 Q. Please state your full name for the Inquiry.  
 12 A. Stephen Paul Barclay.  
 13 Q. Mr Barclay, thank you for providing to the Inquiry  
 14 a witness statement. It's INQ000574180, which you have  
 15 signed. Can you confirm to the Inquiry that it's true  
 16 to the best of your knowledge and belief.  
 17 A. I can.  
 18 Q. Thank you for that.  
 19 We know from it, Mr Barclay, that from  
 20 13 February 2020 until 15 September 2021, you served as  
 21 Chief Secretary to His Majesty's Treasury.  
 22 A. That's correct.  
 23 Q. Or CST, as the abbreviation goes. For the duration of  
 24 the period that's within the scope of the Inquiry you  
 25 also served as Chancellor of the Duchy of Lancaster from  
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1 Q. And those are the areas within its remit that are most  
 2 relevant, to public procurement generally and emergency  
 3 public procurement in particular? That's right, is it  
 4 not?  
 5 A. (No audible answer)  
 6 Q. Your day-to-day duties in that role involved you in  
 7 interdepartmental and Treasury meetings, stakeholder  
 8 engagement, budget management, and also you had  
 9 decision-making authority, including in relation to  
 10 approving budgets and influencing economic and fiscal  
 11 policies, all of that under the guidance of the  
 12 Chancellor?  
 13 A. Correct.  
 14 Q. In that role, you also used procurement principles and  
 15 regulations which are codified in the government  
 16 document "Managing Public Money", and sets out the main  
 17 principles for dealing with resources in the public  
 18 sector organisations within the UK.  
 19 A. Correct.  
 20 Q. That's right.  
 21 All right, I want to now put up on the screen  
 22 a couple of paragraphs from the opening, within this  
 23 module, and a graph with which you may well be familiar.  
 24 So the references for that are, firstly,  
 25 PHT000000149, and it's pages 122:  
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1 "The level of spending on ... healthcare equipment  
2 was not anticipated by anyone, including His Majesty's  
3 Treasury. To take the example of PPE alone ..."

4 And you, of course, Mr Barclay, were involved in  
5 more than just PPE but here:

6 "To take the example of PPE alone, the Treasury's  
7 spending envelopes, that is the total amount of money it  
8 plans to spend over a set period of time, expanded  
9 138-fold from £100 million to £13.8 billion ..."

10 Yes?

11 **A.** Correct.

12 **Q.** And that is illustrated -- let's just move on, before we  
13 go to the graph, to the next paragraph, or page 5,  
14 from 9 on, starting "These sums".

15 "These sums, vast as they are, have understandably  
16 been the subject of considerable public interest and  
17 media attention.

18 "One of the questions which has been, and continues  
19 to be, posed is whether, during the course of the crisis  
20 which faced the country, the public purse was exploited  
21 for personal gain by those with close connections to  
22 government and officials. There has been a substantial  
23 amount of public discourse about whether there was  
24 corruption, cronyism, and misuse of public money carried  
25 out under cover of protecting frontline health and

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1 **Q.** Yes. All right.

2 Thank you. I think that can now be taken down.

3 But it helps us frame the degree of spending  
4 increases, or spending envelopes, over that period.

5 You tell us in your statement that during the  
6 relevant time the Treasury's role was one of overseeing  
7 public spending, but that was often delegated to AOs,  
8 accounting officers, given the urgent pace at which  
9 decisions were required.

10 Now, presumably, Mr Barclay, the role of overseeing  
11 was made extremely difficult in these circumstances. Is  
12 that fair?

13 **A.** Yes, it is.

14 **Q.** And once one delegates to AOs, the decisions that were  
15 made about expenditure, one is, in effect, removing  
16 oneself within the Treasury from that role of oversight.

17 There's a limited degree of oversight that can, in  
18 practical terms, be achieved once that transfer of roles  
19 is done.

20 **A.** It becomes the accounting officer's decision, yes.

21 **Q.** Yes. To what extent, if any, was that decision-making  
22 process supervised, monitored, the subject of guidance  
23 from within the Treasury?

24 **A.** Well, firstly, delegated envelopes are part of the  
25 consistent "Managing Public Money" approach. I think,

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1 social care workers, as well as the public, from  
2 Covid-19 infection. The Inquiry had considered not only  
3 referrals by those with connections to the then ...  
4 Conservative Party, but also those ... political parties  
5 including the Labour Party."

6 Now, it's principally the first paragraph that  
7 I wanted to draw your attention, but as we will move to,  
8 and I know you address in your written evidence, the  
9 Treasury, and you particularly did have some, some  
10 degree -- some role in guarding against the misuse of  
11 public funds, didn't you?

12 **A.** I did.

13 **Q.** Let's now turn to that graph. It's INQ000474916.

14 I don't know whether you are familiar with this. You  
15 may even have seen it on Day 1 of this module. Are you  
16 familiar with it?

17 **A.** Not particularly this one, but obviously the underlying  
18 message, yes, that spending increased extremely quickly.

19 **Q.** Extremely quickly. And even beyond the date by which  
20 PPE expenditure was tailing off, if not finishing? June  
21 or July of that year?

22 **A.** Yes.

23 **Q.** And likewise, expenditure on ventilators had already  
24 taken place by that period?

25 **A.** It had.

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1 what, Mr Wald, you're drawing attention to is the vast  
2 increase in the delegated envelopes and the speed at  
3 which that envelope increased over a short period of  
4 time, and I think that needs to be viewed in the context  
5 of the pandemic that the country was facing, the scale  
6 of the challenge, and the imperative from the  
7 Prime Minister and the Quad, who ultimately set the  
8 envelope. My job as Chief Secretary is then to go and  
9 implement those decisions, but the decision on spending  
10 of that size of up to over 13 billion in England, over  
11 15 billion across the United Kingdom, is set by the  
12 Prime Minister, with the Chancellor.

13 That decision reflected the imperative which was to  
14 focus saving lives at, and that was what drove that  
15 increase and I'm sure we will come on to the various  
16 stages of that.

17 **LADY HALLETT:** Was the spending envelope basically the  
18 Treasury, on the authority of the Prime Minister,  
19 saying, "You can spend up to this amount but no more"?  
20 I mean, a budget would normally be "We expect you to  
21 spent about 30 million" or whatever, but an envelope  
22 seems to me is slightly different, isn't it?

23 **A.** So conditions will be attached to the envelope and one  
24 of the key mitigations that the Treasury put in place  
25 was to impose conditions alongside that increase. But

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1 the envelope then gives the accounting officer authority  
2 to spend within that quantum, and the reason for that  
3 was the need for speed, and the fact that it was simply  
4 not practical for so many contracts to be coming to the  
5 Treasury. And indeed, I think in Chris Young's  
6 statement to the Inquiry my Lady, he talks about some  
7 days there being as many as 11 contracts, an average of  
8 almost four a day.

9 So in those early days, what emerged was that it  
10 wasn't practical for individual contracts to come to the  
11 Treasury, and that is why the Quad and Number 10 decided  
12 to allocate a spending envelope to speed up those, so  
13 that the bureaucracy didn't stop us securing those  
14 essential PPE contracts to save lives.

15 **LADY HALLETT:** Thank you.

16 **MR WALD:** Mr Barclay, you speak of a balance at paragraph 11  
17 of your written evidence. The balance, it needed to be  
18 a balance between public spending principles, but also  
19 with the flexibility required to meet the urgent health  
20 response spending.

21 Did you think at the time, and secondly, looking  
22 back now, do you think the right balance was struck, in  
23 terms of public expenditure, the need for speed, the  
24 need for flexibility?

25 **A.** Well, I think first, if you look at the first envelope  
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1 position?

2 **A.** I think what characterised the position is that value  
3 for money changes at a time of national crisis. And so,  
4 if I refer, Mr Wald to my private office's email on  
5 22 March, they say, and I quote:

6 "CST feels deeply uncomfortable with this and  
7 doesn't feel like there's been the correct level of due  
8 diligence. However, CST feels he has been given no  
9 choice other than to approve."

10 And that is because I accepted that with just  
11 two weeks of supply then it was necessary at a time of  
12 national crisis to assess value for money differently to  
13 what would have been the case, if I refer back to your  
14 opening graph, when the original PPE budget had been  
15 set.

16 **Q.** I think, Mr Barclay, the answer to my question is yes.  
17 One cannot apply the same principles to assessing value  
18 for money in an emergency where public procurement, say  
19 of PPE, is of vital importance as one would normally,  
20 but one cannot even apply it in any meaningful sense.  
21 If one is told that the stocks are about to expire and  
22 that there is an urgent need to procure, it's simply not  
23 possible to know or to ascertain whether the price being  
24 paid is the going rate or is twice the going rate.

25 **A.** I'd respectfully say that the principles can be  
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1 that was put in place for £100 million, that was in the  
2 context of the NHS having just two weeks of supply. And  
3 that is why there was such an urgency, because the  
4 imperative was to ensure we didn't run out of essential  
5 protective equipment for frontline services, and that is  
6 why the procurement process needed to be speeded up.

7 Second, there was a huge global challenge with  
8 countries competing against each other.

9 And third, the existing suppliers couldn't meet  
10 demand. So there's a requirement to go to new  
11 suppliers, most of whom were overseas, particularly in  
12 China, and there was also questions in China as to  
13 whether it had a further wave as to whether that supply  
14 could be secured moving forward.

15 And therefore, what characterised that early phase,  
16 which is addressed, I think, in the Treasury corporate  
17 statement, is the urgency of securing supply. And that  
18 in turn shaped the decision that the Prime Minister and  
19 the Quad took to set an envelope which was what then as  
20 CST, I was implementing.

21 **Q.** Given that urgency, Mr Barclay, the requirement to  
22 maintain value for money for which -- to which you refer  
23 in paragraph 12 of your statement, and proper spending  
24 processes, was extremely difficult, if not impossible,  
25 to maintain. Is that a fair characterisation of the  
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1 consistently applied in terms of value for money as  
2 a Treasury test. What I am suggesting, my Lady, is the  
3 application of that principle changes because what  
4 constitutes value for money is then different. So was  
5 I comfortable, as a chief secretary, that the government  
6 was paying eight times, or at some points 14 times the  
7 pre-pandemic price? Of course I wasn't. But did  
8 I respect that the priority which I agreed with was to  
9 protect lives, then we needed to pay what the global  
10 market rate was at that time, and that is why the test  
11 for value for money, the principle would be applied but  
12 the test would be different to what it would have been  
13 before the pandemic.

14 **Q.** And how did you and others within the Treasury inform  
15 yourselves as to what the global market rate was at  
16 a given moment in time?

17 **A.** Well, that couldn't be for me to assess. That is why we  
18 had a delegated envelope in order that the accounting  
19 officer for the Department of Health could make that  
20 assessment, because again, consistent with managing  
21 public money before the pandemic, it is for the  
22 contracting parties, in this case the Department of  
23 Health, to make those assessments on the counterparties,  
24 the value for money, and other conditions such as  
25 checking whether the stock is suitable. That is for the  
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1 contracting parties not the Treasury.

2 **Q.** You were dependent -- sorry, had you not finished your  
3 answer?

4 **A.** Well, I am very happy --

5 **Q.** You were dependent on the judgments made by the  
6 Department of Health and the DHSC when it came to  
7 understanding what the going rate was?

8 **A.** Yes.

9 **Q.** Yes. And I suppose that is what I meant when I said  
10 that an assessment of value for money couldn't have been  
11 conducted within the Treasury; it was conducted on the  
12 basis of say-so from others.

13 **A.** Well, my point is that is consistent with what would  
14 happen before a pandemic, where the accounting officer  
15 would have, within their spending envelope, the  
16 authority. What was different was the size of spend  
17 that was being allocated.

18 So again, if I refer back to the email of 23 March  
19 from David Williams, who was the accounting officer in  
20 the Department of Health on this issue, he says that he  
21 is satisfied with the purchase from a regulatory and  
22 propriety perspective and he is satisfied "that in the  
23 circumstances, this purchase represents value for  
24 money."

25 And that was consistent with the approach that is

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1 identify in your written evidence. You describe them as  
2 the Treasury's approach shifting through three  
3 overlapping phases. Firstly, you identify a phase that  
4 runs from March to May of 2020. And you characterise it  
5 in this way:

6 "With an overriding priority on health outcomes,  
7 [the Treasury] supported emergency spending with  
8 a higher risk appetite due to the urgency of the  
9 situation, accepting trade-offs like higher costs for  
10 healthcare supplies as the alternative could have been  
11 loss of life."

12 And I think that's what you were referring to a few  
13 moments ago. That characterises that first phase, is  
14 that right, March until May 2020?

15 **A.** It does, and again, the fact that this was  
16 a cross-government decision led by the Quad can be seen  
17 from the fact that the Cabinet Office procurement  
18 policy, which was issued in March, expressly indicated  
19 a higher risk appetite, including instructions  
20 delegating payments in advance to accounting officers.  
21 So again, it wouldn't be normal, outside of a crisis,  
22 for such advance payments to be paid for supplies, but  
23 the Cabinet Office guidance allowed that, because it  
24 reflected the urgency with two weeks' of supply left,  
25 that all efforts should be made, and the concern that

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1 set out in "Managing Public Money".

2 **Q.** Save that, Mr Barclay, your deep discomfort and your  
3 frustration, we see that you experience sentiments such  
4 as these at various points in the correspondence, would  
5 in normal circumstances have been met with a greater  
6 explanation or the provision of greater detail in order  
7 to allay your concerns. In these situations or in this  
8 situation, you really had to just go on the basis of  
9 what you were told by the DHSC?

10 **A.** Yes, I mean, I was often, and I think the  
11 correspondence, my Lady, will show this, not least the  
12 times of emails, bank holidays, very late at night,  
13 weekends and so forth, with very, very quick turnaround,  
14 was a reflection of the global competition with  
15 countries for contracts. The fact it was a suppliers'  
16 market, the fact that they could demand terms in terms  
17 of upfront payments that would not normally be agreed  
18 to, and that both drove the spending envelope that was  
19 allocated to the Department of Health, but also shaped  
20 the value for money judgement they were reaching and  
21 communicating to us in the Treasury.

22 **Q.** All right. I will come back to the emails, you've  
23 mentioned one of them. It's not the only one in which  
24 you express concern or discomfort, but before I do that,  
25 I just want to deal with the three phases that you

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1 other countries were going to out-compete us to secure  
2 those supplies.

3 **Q.** Now, we've spoken about the information that was  
4 provided to you, and the judgements that were provided  
5 to you by the DHSC. Was any other data available to the  
6 Treasury in making the judgements that informed phase 1  
7 funding?

8 **A.** In terms of what other -- Mr Wald, could you just  
9 clarify, are you meaning on-demand modelling or some of  
10 the --

11 **Q.** Whatever it might be. What I'm interested to  
12 understand, and I'm going to come back to it towards the  
13 end of our exchanges on recommendations, is, was there  
14 any reliable source of data that could inform what the  
15 spending envelope should be and what individual  
16 decisions on a particular contract should also be?

17 **A.** Well, I think it was very hard to know how much supply  
18 was going to be needed, because there was huge  
19 uncertainty around the direction of the virus. There  
20 was gaps in data in terms of inventory. There was  
21 insufficient data, for example, from NHS colleagues on  
22 the burn rate, and so the procurement was done within  
23 the context of a highly uncertain environment.

24 And as I alluded to earlier, Mr Wald, it was  
25 uncertain to what extent suppliers such as China could

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1 be relied on if, for example, the Chinese themselves had  
2 further waves of virus and needed more of their own  
3 supply.

4 So those early decisions were taken in a very fluid  
5 and uncertain environment.

6 **Q.** Let's move on to the second phase, if we may. That  
7 runs, according to your categorisation, from May 2020  
8 until April 2021.

9 Now, the initial period of that saw increasing  
10 costs. We know from the table that we saw that they  
11 increased -- they continued to increase until June or  
12 July of 2020. The spending envelopes do. But you say  
13 that as the pandemic progressed and costs rose, the  
14 Treasury focused on delegating increasing budgets to the  
15 accounting officers as the initial emergency sign-off  
16 processes were not effective as a longer term position,  
17 given the asymmetry of the information between  
18 departments, in part DHSC and the Treasury.

19 So, to understand that, just as costs rose, the  
20 Treasury handed over to accounting officers the task of  
21 making those detailed decisions in given cases.

22 **A.** Well, I think the more material issue was the volume  
23 required exponentially rose, because as you will see  
24 with the delegation, the increased delegation on the  
25 envelope, that reflected an initial envelope for health

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1 **Q.** Nothing in principle, though, to prevent the sharing of  
2 that data, or the prevention of the siloing of data, is  
3 there? That data could be made available to more than  
4 one department?

5 **A.** It should.

6 **Q.** It could and should --

7 **A.** It could and should, and I think a flavour of my  
8 evidence has been the concern I had around the siloing  
9 of data.

10 **Q.** Well, I said I'd leave to the end but there's no reason  
11 not to address it now in terms of recommendation. What  
12 data changes would you recommend to prevent this  
13 asymmetry that you describe in your evidence?

14 **A.** I think it relates both to the Treasury and the  
15 Cabinet Office. And I think there were similar concerns  
16 from colleagues, Lord Agnew and others in the Cabinet  
17 Office. And I think bringing in external challenge,  
18 bringing in the commercial expertise in the Cabinet  
19 Office to help support the Department of Health -- which  
20 had huge bandwidth challenges, because of the volume of  
21 contracts they were trying to deal with, the huge  
22 pressures that they were under -- if requests came to  
23 Treasury at a very late stage, that limited our ability  
24 to help influence those contracts and those decisions,  
25 and what I was pushing for as Chief Secretary was for

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1 needs, specifically. There were then later questions  
2 which we can come -- you may choose to come on to around  
3 when PPE was to cover the opening of the NHS, that  
4 creates demand. It was to provide PPE to other  
5 departments such as prisons. That created further  
6 demand. There was then covering the devolved  
7 administrations, and so forth.

8 So the scope of what was being procured by DH was  
9 increasing, and that is why the envelope was expanded  
10 through the various phases.

11 **Q.** And throughout these phases, or these -- well, I'm  
12 talking about phase 2, as you describe it, but  
13 throughout this period there is what you describe as an  
14 asymmetry of information between departments, including  
15 between the Treasury and DHSC.

16 **A.** Yes, because, as I mentioned earlier, it is the  
17 contracting party that has the information on the  
18 counterparts. So they know what commercial  
19 conversations they are having with suppliers in China.  
20 They are liaising with our embassy network as part of  
21 that. But those aren't conversations that the Treasury  
22 is having; it is the contracting party, ie, the  
23 department, that is having those conversations, and it  
24 is therefore the department that will have the data and  
25 that sort of detail.

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1 earlier sight of that data so that we could then  
2 challenge it more effectively.

3 **Q.** In the event of a future pandemic that called for  
4 emergency procurement, those measures should be put in  
5 place, should they not?

6 **A.** Well, I think the more we can break silos down, the  
7 better.

8 **Q.** Let's move in to phase 3, then, a period that you  
9 identify as running from April 2021 to October 2022, and  
10 you say this:

11 "[The Treasury] built on previous learning, managing  
12 spending peaks for effectively with less acute  
13 trade-offs between taxpayer and patient interests, and  
14 preparing for a return to pre-COVID spending  
15 arrangements."

16 I just want to unlock, if I may, with you what you  
17 mean by "building on previous learning". What at this  
18 point were the lessons that had already been learnt from  
19 the experience of the previous months?

20 **A.** Well, I think first and foremost was around demand  
21 modelling. So one of the challenges, particularly early  
22 on, when many of the contracts were entered, was the  
23 uncertainty around demand modelling, what the path of  
24 the virus would be, what the burn rate would be on  
25 frontline services, the number of services that needed

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1 to be covered, the inventory data that they had, and  
 2 I think a lot of Health colleagues found that  
 3 challenging and it took some time to put in place the  
 4 demand modelling and the data around that. But by the  
 5 third phase, obviously, that had significantly improved.

6 **Q.** All right, thank you.

7 You mentioned the devolved administrations a moment  
 8 ago. I just want to pick up with you how -- what was  
 9 your role in ensuring that the devolved  
 10 administration -- and the role of the Treasury -- had  
 11 sufficient funding to cope with the challenges that they  
 12 faced in terms of emergency procurement?

13 **A.** Yes, so within the Treasury I would be the lead minister  
 14 in dealing with the devolved administrations' finance  
 15 ministers, so not their health ministers but their  
 16 finance ministers. And in terms of ensuring they had  
 17 sufficient funding, firstly that was applied  
 18 consistently, as it would before the pandemic, in terms  
 19 of Barnett consequentials. So when additional money is  
 20 allocated to England, an equivalence goes to Scotland,  
 21 Wales and Northern Ireland. And then, secondly,  
 22 a number of the big ticket spending items, including  
 23 PPE, were then allocated through the envelope on  
 24 a UK-wide basis. And therefore, we provided sufficient  
 25 funding on advice with the Department of Health

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1 in future, that that sharing of data should take place?

2 **A.** Yes, a consistent theme of my time in government has  
 3 been a push for one version of the truth across  
 4 government and the sharing of data across silos.

5 **Q.** All right, Mr Barclay. You deal, in your written  
 6 evidence in some detail, with a chronology of particular  
 7 cases, demands for expenditure, that you had to deal  
 8 with, that span from March 2020 all the way to  
 9 September 2021.

10 **A.** Yes.

11 **Q.** So they span the three phases that you have identified.  
 12 I don't propose to go through all of them with you.  
 13 Instead, I want to take some early examples of the  
 14 pressures that you were placed under in order to  
 15 understand and extract any emerging themes from those.

16 Let's start, if we may. You mentioned conditions  
 17 being placed. I think it was in answer to your question  
 18 from the chair. You placed conditions on the spending  
 19 envelopes, did you not?

20 **A.** Yes.

21 **Q.** Yes.

22 Let's have brought up on to the screen, if we may,  
 23 INQ000480114.

24 This is a letter from yourself dated 24 April 2020  
 25 to Matt Hancock and Michael Gove. If we can start with

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1 colleagues, as shaped by the Quad and the PM and the  
 2 Chancellor's setting of the envelope in order to provide  
 3 that on a UK-wide basis.

4 **Q.** Any difference in treatment of the devolved  
 5 administrations themselves? Scottish Government, Welsh  
 6 Government, Northern Ireland Executive?

7 **A.** Not to my knowledge, Mr Wald.

8 **Q.** Did they all have fiscal frameworks, for example?

9 **A.** In what regard?

10 **Q.** You tell us that there was a fiscal framework in the  
 11 Scottish Government allowing for borrowing up to  
 12 £3 billion for capital and 1.75 billion for resource  
 13 purposes. Similar arrangements in Wales. But not so in  
 14 Northern Ireland.

15 **A.** That may be the case, I'd have to refresh, but there is  
 16 legislation that applies to each of the DAs. What was  
 17 in common was they were not under a duty to share data  
 18 with the UK Government in terms of their burn rate. So,  
 19 again, it pointed to some of the challenges, both around  
 20 the demand modelling but also, where they'd incurred  
 21 cost in that initial phase by procuring themselves,  
 22 there was a challenge in terms of how that was then  
 23 allocated.

24 **Q.** Can we infer from that answer that you would say that it  
 25 would have been preferable, that it would be preferable

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1 page 1, paragraph 1:

2 "I am writing to formally confirm the funding  
 3 envelopes agreed between [the] Treasury ... and the  
 4 Department of Health and Social Care ... for the  
 5 procurement of ventilators ... (PPE) and testing  
 6 programmes ..."

7 So that's the purpose of the letter.

8 We then move down to paragraph 3, page 2 of 4.  
 9 Sorry, it's -- yes, it is that half.

10 "As a result of this, [the Treasury] rely on the  
 11 condition that ... DHSC accounting officer was content  
 12 with those approvals to ensure due diligence and  
 13 scrutiny was being applied appropriately. To support  
 14 this, [the Treasury] approved the appointment of  
 15 a second accounting officer who took on his new  
 16 responsibilities from the 6 March."

17 Who was that, do you recall?

18 **A.** It was David Williams.

19 **Q.** But what this letter makes very clear is that the  
 20 accounting officer was effectively there making the  
 21 judgements that would otherwise be made within the  
 22 Treasury?

23 **A.** No, the accounting officer was making the normal  
 24 decisions that an accounting officer would make in  
 25 respect of their delegated envelope.

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1 The reason a second permanent secretary was put in  
2 was reflecting the intense pressure in terms of the  
3 sudden quantum shift in the volume of contracts that the  
4 Department of Health had to enter. So the Department of  
5 Health would normally, within their spending envelope,  
6 be the contracting party, and their accounting officer  
7 would be responsible. What was happening was because  
8 they needed to secure so much supply in a very globally  
9 challenged market, and do so at such pace to save lives,  
10 because the critical issue driving the government's  
11 approach was to ensure we didn't run out of PPE; that  
12 was creating a massive pressure on the Department of  
13 Health, and that is why a second permanent secretary was  
14 appointed.

15 **Q.** How many accounting officers were there?

16 **A.** In the Department of Health?

17 **Q.** Yes.

18 **A.** All departments, at that point, would have one perm sec.

19 I think it's now much more common for departments to  
20 have two permanent secs, but from memory, although  
21 Treasury colleagues can clarify, I think it was the  
22 first time, other than in Treasury, that a department  
23 had a second permanent secretary. And again, it  
24 reflected the unique circumstances that we faced.

25 **Q.** Let's just look at the conditions to which you have

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1 Foreign Office guidance through the First Secretary and  
2 so on.

3 I think I can go to the bit in notes -- I will have  
4 them in my notes what the full conditions are, if that's  
5 helpful, Mr Wald.

6 **Q.** If it's easy to access, yes please.

7 **A.** The conditions will have been set out in the delegation  
8 when we went -- well, for the first £1 billion that's  
9 where those would have been set out.

10 **Q.** While you're looking for that, can I just ask for  
11 INQ000534512, to be put up on the screen.

12 **LADY HALLETT:** I don't know if Mr Block or others could  
13 help? I don't know if anyone in your team can help,  
14 Mr Block?

15 **MR BLOCK:** I think it's an annex.

16 **LADY HALLETT:** All right. Well, I don't really want to take  
17 up too much time. Thank you, Mr Block.

18 Sorry to interrupt.

19 **MR WALD:** We'll come back to it, Mr Barclay.

20 You mentioned Lord Agnew earlier. Have you seen  
21 this email in which he expresses concern that he was  
22 being asked to agree a sum as large as one and a quarter  
23 billion in the course of a single day.

24 **A.** Yes.

25 **Q.** Yes. Was that exceptional? You spoke about large sums

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1 referred. This is paragraph 11 of this letter. Page 3.

2 There we are:

3 "These aim to ensure that we only enter into  
4 contracts with reputable companies who we can reasonably  
5 trust will fulfil these contracts and provide safe  
6 equipment, and that public money is protected as far as  
7 possible in these challenging circumstances. The  
8 conditions were specifically designed to avoid slowing  
9 procurement down and have been agreed with your  
10 officials. They will of course be kept under review and  
11 adjusted as necessary ..."

12 Could you summarise with us what the conditions  
13 were?

14 **A.** The conditions were set out in correspondence but, from  
15 memory, it was things like checking the quality of  
16 stock, because I was very concerned that we would  
17 procure stock that wasn't fit for purpose. It was  
18 a particular concern of mine, because my career before  
19 coming into Parliament, had been in financial crime  
20 prevention, and -- as a lawyer at Barclays, and my sort  
21 of concern there was if we paid for something at pace,  
22 do we have the ability to extract ourselves from that  
23 contract at a later point?

24 There were conditions linked to the checks that  
25 would be done, and there was an interaction there with

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1 needing to be authorised in short periods of time.

2 **A.** It wasn't as exceptional as it should have been and it  
3 was, as I think the evidence shows in my comments,  
4 through my private office, there were repeated instances  
5 where we were asked for very large spending decisions  
6 with very, very little time, and on occasion that was  
7 escalated through Number 10 even before the Treasury had  
8 received the request.

9 **Q.** It's a reason you had deep, deep discomfort or deep  
10 concerns, isn't it?

11 **A.** Yes.

12 **Q.** Because those principles, the principles that you  
13 applied when you were working at Barclays and that you  
14 were used to, simply couldn't, in practical terms, be  
15 meaningfully applied?

16 **A.** Well, the concern I was raising was around the data  
17 sharing, and the transparency. Because we were reliant  
18 on the accounting officer. That was consistent with the  
19 framework "Managing Public Money". The concern I had  
20 was the quantum was of a very different order to what  
21 would be the case in peacetime, and whilst I agreed that  
22 the imperative was to save lives, and that is why the  
23 Prime Minister and the Quad had decided to have such big  
24 envelopes devolved, I felt equally that required  
25 a transparency of data around that and indeed, that is

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1 why in that letter you brought up a moment ago, Mr Wald,  
2 at the end you will see one of the things that I  
3 insisted on, was that that was shared with the  
4 Comptroller and Auditor General, because I spent  
5 four years on the Public Accounts Committee when I first  
6 entered Parliament and I felt it was important that the  
7 National Audit Office was notified in real time that we  
8 were delegating such large envelopes.

9 So the logic for delegating I thought was very  
10 understandable, but I thought that should be  
11 communicated to the National Audit Office because it was  
12 such an exceptional amount that was being delegated.

13 **Q.** In effect, in the interest of transparency?

14 **A.** Indeed.

15 **Q.** Yes. And did you frequently take that step?

16 **A.** I took it on number of occasions. So I think both when  
17 I refused the Department of Health's request to  
18 retrospectively agree spend, which we may come on to, in  
19 the second phase, in January 2021, which forced the  
20 Department of Health accounts to be irregular and  
21 therefore notifiable by the NEO. I think we had two  
22 letters to him the previous April, you brought one up,  
23 but I was very surprised when, the day after that letter  
24 was sent, I then got a request to increase the envelope  
25 further by a further 3 billion from the Department of

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1 **MR BLOCK:** For Mr Wald, please. It's a list of conditions.

2 **MR WALD:** Okay, yes, I see, let's deal with that now, then,  
3 before we get into Meheco.

4 I have been given an INQ number, it's an email,  
5 perhaps it's the annex to which reference has been made.  
6 It's INQ000273559.

7 And it is around this time, I gather it's 25 March.

8 Ah, here we are. Second paragraph:

9 "Conditions for the delegated funding envelopes are  
10 that you must ..."

11 Is this what you were looking for?

12 **A.** Yes, I think, I don't know if this is on PPE or  
13 ventilators because the paragraph above says  
14 ventilators, but a lot of the conditions were consistent  
15 across the piece. So how legitimate are the companies  
16 with which we are contracting? The certification of the  
17 equipment, because I was very concerned that, because of  
18 the pressure of speed, PPE might be bought that then, if  
19 it proved unsafe, our frontline services would be  
20 placing a reliance on it, which I was very worried that  
21 in the haste of procuring it, we didn't want to give  
22 false comfort by providing frontline staff with PPE that  
23 wasn't fit for purpose. And so I was signalling that  
24 that was a particular risk that I was concerned about.

25 And then we were recognising that because of the

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1 Health, particularly given that the Department of Health  
2 knew about the letter when I sent it, and therefore  
3 I requested that a second letter be sent to the  
4 Comptroller and Auditor General, making clear that it  
5 had then shifted from 1 billion to 4 billion. I also  
6 raised with the Treasury colleagues whether we should  
7 write to the Chair of the Public Accounts Committee, but  
8 on advice, it was decided not to do so.

9 So I hope one can see, Mr Wald, that there was  
10 a consistent pattern on my part of recognising the  
11 imperative of the remarkable times we faced and the need  
12 to save lives with a desire to have transparency around  
13 those decisions, including notifying the National Audit  
14 Office in real time that we were delegating such large  
15 sums.

16 **Q.** I wasn't going to take you as far as January 2021 but  
17 thank you for that evidence.

18 I would like to take you to another example within  
19 March 2020. This is the Meheco offer from a Chinese  
20 provider that you may recall.

21 Could we have displayed INQ000572255 and page 1 of  
22 it.

23 **LADY HALLETT:** I think the Treasury team may have come up  
24 with the goods.

25 **MR WALD:** Ah.

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1 unique global market, there was a premium, but trying to  
2 bring some transparency to where the price was spiking  
3 above 25%. So again, not making it unduly bureaucratic,  
4 but trying to get some transparency around any outliers  
5 on the decision, ensuring that there was the right  
6 governance process there, using the local knowledge of  
7 our embassy team, and then pushing on demand management  
8 as well, and trying to avoid upfront payments but  
9 recognising that the reality of the market, and because  
10 it was a suppliers' market, many suppliers were able to  
11 demand significant upfront payments as the price of  
12 contracting and securing those supplies.

13 **Q.** All right, thank you, Mr Barclay, and thank you to  
14 Mr Block and others for the speedy retrieval of that  
15 reference.

16 Can I now take you to the reference that I was about  
17 to go to, INQ000572255. This is dated 22 March 2020  
18 from your private secretary. It relates to an offer  
19 from a Chinese provider called Meheco, you may recall.

20 **A.** Yes. I think this was part of a wider -- I think they  
21 were asking for 100 million of which there was  
22 a 20 million specific contract, but it was part of the  
23 initial 100 million envelope that was allocated by the  
24 Quad to --

25 **Q.** I just want to draw your attention to this bullet, it's

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1 about seven down.

2 "The team continued to have [value for money] and  
3 propriety concerns with this purchase, although these  
4 are lower than discussed yesterday given it appears that  
5 Meheco is at least a legitimate company ... However, the  
6 team are still concerned that the equipment may not  
7 work, no contract has yet been seen and payment in  
8 advance of receipt is inherently risky. Compared to the  
9 multiple asks we have signed off over the last week,  
10 this therefore carries by far the most risk from  
11 propriety, regularity, and value for money  
12 perspectives."

13 That was not unusual, those concerns, in relation to  
14 particular offers, was it?

15 **A.** Well, I would put it in the context of the first line,  
16 "The UK currently has 2-week supply."

17 **Q.** Yes.

18 **A.** And the advice from my Director General, Cat Little,  
19 was:

20 [As read] "I don't see how we can do anything else  
21 but approve this given the timescales. I would be keen  
22 to move to a delegated model as soon as possible."

23 So again, it wasn't that there wasn't an awareness  
24 either in the Treasury or, I am sure, for Health  
25 colleagues to speak to, I'm sure they were also aware,  
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1 needed to have clearer modelling data. As indeed,  
2 a moment ago we touched on the conditions. One of the  
3 conditions I set specifically, I think, to this order  
4 was "a clear plan for managing excess stock", it's  
5 either this order or another, it may have been a PPE one  
6 on that same day. But on the 24th, that was one of the  
7 conditions I set.

8 So throughout, we were pushing for better demand  
9 modelling. But to be fair to Health colleagues, it was  
10 hard for them to provide that data at that stage because  
11 there was such uncertainty over the path of the virus,  
12 there was uncertainty over the levels of usage within  
13 the NHS, because that data on inventory and burn rate  
14 was not available. And so the spending decisions were  
15 having to be taken without that information, and one of  
16 the things I was pushing for was to try to ensure that  
17 moving forward, we would get that information for future  
18 decisions.

19 **Q.** And that's reflected in a further email, if we could  
20 just have up on the screen INQ000572257. Page 1, and  
21 the first bullet point. There we are:

22 "The table highlighted below, setting out levels of  
23 supply before [and] after [Treasury] approval. Wants to  
24 show Munira how low DHSC let supplies go before coming  
25 to us for information and how little information DHSC  
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1 but the reality was with two weeks' supply the priority  
2 was to secure that supply for the front line.

3 **Q.** Are you suggesting that had the supply been two months,  
4 a different approach might have been taken?

5 **A.** Well, there would have been less urgency, yes.

6 **Q.** Less urgency and therefore that value for money balance  
7 would have been struck differently?

8 **A.** Correct.

9 **Q.** All right. Let's move on a couple of days. 24 March,  
10 and INQ000572260. This is in relation to approval that  
11 was sought by DHSC to pre-order 12.5 million testing  
12 kits for £75 million, which you may recall.

13 **A.** Yes.

14 **Q.** You were recommended to approve the order, given the  
15 government's current objective to rapidly expand  
16 testing, and you did do so the same day. Yes?

17 **A.** Yes.

18 **Q.** You requested a detailed breakdown from DHSC on what  
19 demand modelling showed we would need against the supply  
20 curve of what equipment and staffing would be in place.

21 We see that the Treasury was saying, "Push DHSC hard  
22 on absence of detailed breakdown."

23 Was the DHSC pushed hard and if so, what came of it?

24 **A.** Well, the "he" is myself. So I was requesting that  
25 alongside these significant spending decisions, we  
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1 have been giving us. I know you're already working on  
2 this -- can I check in on how long this will take to  
3 produce so I can manage expectations?"

4 Now, you said a moment ago, to be fair to DHSC,  
5 there were all manner of challenges that they faced in  
6 providing that information. Were they, in essence,  
7 requests for information that it would have been  
8 possible to accede to?

9 **A.** Well, the Munira recall relates to a slightly different  
10 but related point. So what happened there was --

11 **Q.** This is Munira Mirza?

12 **A.** Yes, who was one of the Prime Minister's key aides and  
13 Number 10 had had a complaint that critical orders were  
14 being slowed down by Treasury because we were asking  
15 questions on value for money and due diligence,  
16 specifically on 24 March 2020. It emerged that that  
17 suggestion was erroneous and the request had not  
18 actually been made to Treasury. But I think what it  
19 does is point to the significant pressure that Treasury  
20 officials were under to expedite orders, which in turn  
21 then placed me under pressure to expedite orders,  
22 because we were being called by Number 10 for not  
23 clearing quickly enough an order that we had not  
24 actually even received.

25 **Q.** I think I want to move on now from the chronology,  
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1 because even in that limited timeframe, we are seeing  
2 a number of themes in emerge or a number of systemic  
3 problems which is that the Treasury is extremely reliant  
4 on what it is told by the Department of Health. It is  
5 not able to perform the usual checks that it would  
6 perform in normal times, and really the only measure  
7 that you were scrupulous to undertake was to maintain  
8 high levels of transparency so that after the event it  
9 could be seen what was spent on what. Is that a fair  
10 summary?

- 11 **A.** Well, firstly, I wasn't doing this after the event, so  
12 I was notifying the National Audit Office in real time.  
13 So I first notified them when the envelope went to  
14 1 billion. It subsequently, my Lady, went to over  
15 13 billion within England and 15 billion UK wide so  
16 I wouldn't accept that -- (overspeaking) --
- 17 **Q.** I wasn't suggesting -- just to be clear, I wasn't  
18 suggesting, Mr Barclay, that you were acting after the  
19 event. I was suggesting that your transparency, your  
20 concern to maintain high levels of transparency, were  
21 designed to enable those that wished to, after the  
22 event, to explore what decisions were made in relation  
23 to public expenditure.
- 24 **A.** In part. One of the key things I was pushing for was  
25 around the governance. How did we bring in the

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1 shows repeatedly, around the lack of data sharing across  
2 government.

- 3 **LADY HALLETT:** Just before you carry on, Mr Wald, in the  
4 middle of Mr Wald's question was an assertion that there  
5 were systemic problems, and I wanted to get your take on  
6 whether you accept there were systemic problems, this  
7 point about having to rely on the DHSC. Or was it just  
8 inevitable because of the circumstances?
- 9 **A.** Well, I think it's inevitable, my Lady, that the  
10 contracting parties will have the information. I don't  
11 think it is inevitable that if the Department is aware  
12 of information some weeks before, that is communicated  
13 to me as Chief Secretary the night before the contract  
14 must be signed. And we may come on to, but, you know,  
15 examples like that. And what I was frequently pushing  
16 for is when did the Department first know of this, and  
17 why has the request come to me at a point where, if  
18 I don't agree, then the consequence is we lose critical  
19 supplies, which would put frontline services at risk:  
20 And that is what Cat Little's email is referring to with  
21 the two weeks' supply, but we may come on to with some  
22 other contracts, and you mentioned earlier Lord Agnew's  
23 email where he talks of 1.5 billion and 24 hours to  
24 decide.

25 It was that late notification that was a source of

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1 commercial expertise within the Cabinet Office to inform  
2 some of those contract negotiations around things like  
3 termination provisions? What was the right sort of  
4 wider governance, so particularly over the summer, in  
5 terms of the wider cross-departmental governance that  
6 was put in place over PPE? So again, it wasn't simply  
7 within the Department of Health silo. So I was pushing  
8 to try to put in more governance, more conditions,  
9 recognising at the same time that the Prime Minister and  
10 the Quad had decided on the envelopes, and the envelopes  
11 were necessary, given it was a global market, other  
12 countries were willing to pay, the supply wasn't secure  
13 from China because we didn't know what would happen with  
14 the path of the virus.

15 And of course we didn't know other factors. We  
16 didn't know how quickly a vaccine would come on stream.  
17 We didn't know if there would be further waves. So some  
18 of the PPE stock may have been more required, had, for  
19 example, the vaccine not been delivered at an earlier  
20 stage. So there was a very, very uncertain environment  
21 into which I was, one, recognising the paramount  
22 priority of the government was to secure supply for  
23 frontline services, but at the second, alongside that,  
24 we should put in as much governance and transparency as  
25 possible. And I was concerned, as I think the evidence

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1 frustration to me, as CST.

2 **LADY HALLETT:** Thank you.

3 **MR WALD:** Did you feel that the notification you received  
4 was later than it had to be?

5 **A.** Yes.

6 **Q.** Yeah. On numerous occasions?

7 **A.** Yes.

8 **Q.** And if you're able to offer a view, why did that happen?

9 Why were you not notified at a time sufficiently early  
10 to enable you to meaningfully respond to it, scrutinise,  
11 question, and do what one would expect a person in your  
12 role would do within the Treasury?

13 **A.** Well, I think that's probably more for Health colleagues  
14 to explain. I think it's fair to say they were under  
15 huge pressure and extremely busy, and dealing with many  
16 things, but at the same time, I think if the request  
17 comes late to Treasury, then obviously the ability to  
18 challenge that is curtailed.

19 **Q.** When you say "late", we've looked at an example where  
20 stock was down to only two weeks remaining. That is  
21 a request that comes into Treasury late by reference to  
22 the available stock. Is that what you were referring to  
23 just now, or did you mean a request that related to an  
24 offer that might be lost within 24 hours?

25 **A.** So there's one -- so I think that initial period in

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1 March was so early in the pandemic that, actually, the  
2 pressure on health was more because of the huge upturn  
3 in requirement. And therefore, potentially more  
4 understandable. What I am -- alluded to is, for  
5 example, I think there was a £300 million contract, from  
6 memory, that came to me the night before where the  
7 company lost its option if it didn't exercise it the  
8 next day. That was on domestic manufacture.

9 And I was very surprised that there hadn't been  
10 detailed discussions with that counterparty before  
11 notifying me the night before the option expired.

12 I was equally surprised when the request to increase  
13 the delegation from 1 to 4 billion came the day after my  
14 letter to the National Audit Office was sent. And it  
15 struck me as surprising that that hadn't come to me  
16 sooner.

17 **Q.** So, in essence, had you had a bit more time, you would  
18 have imposed more scrutiny over offers that were  
19 incoming?

20 **A.** Well, I think it's not just that the Treasury would have  
21 been able to have -- and officials -- more time to  
22 scrutinise that, but also Cabinet Office colleagues who  
23 had specific commercial expertise would have had more  
24 time to be involved in those decisions.

25 **Q.** And with that additional time and that additional  
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1 from the matters that you chronicle, you put in  
2 chronological order in your witness evidence, that we've  
3 not touched on.

4 We've looked at data inefficiencies, timing, the  
5 reliance that had to be placed on what the Treasury was  
6 told by the DHSC. Are there other emerging themes, as  
7 you look back and consider those events that you set out  
8 in your witness evidence?

9 **A.** For me, throughout, data was the key, both data sharing  
10 but also data modelling. And, you know, that was sort  
11 of a paramount issue. I think the ability to scale was  
12 a challenge. So by the time DH and cabinet colleagues  
13 had put in place domestic manufacture to be able to  
14 scale that, the global price by then had started to fall  
15 dramatically, so we had missed the key period where most  
16 of the contractual spend had been incurred.

17 **Q.** How might that have been addressed?

18 **A.** So I think it was part of a lessons learned. I think  
19 there's a-- we were incredibly reliant on overseas  
20 supplies. Predominantly from China. And I think that  
21 drove a lot of the early procurement concerns in terms  
22 of reliability. So our ability to scale. There was  
23 very little domestic supply and there's very little data  
24 at the start of the pandemic, and if you look at when  
25 the significant spend was incurred, it was in those  
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1 scrutiny, whether it came from Cabinet Office or from  
2 Treasury, would have come a better prospect of achieving  
3 value for money; is that fair?

4 **A.** I think the contracts would have been better. I think  
5 the challenge on demand modelling needs to be viewed  
6 within the context that most of the contractual spend  
7 was committed by -- by early June, I think, from memory.  
8 Certainly April, May, and by June, most of that  
9 contractual spend was committed. And I think the demand  
10 modelling didn't really start to come through in better  
11 form until the autumn.

12 So whilst I was pressing for that to come sooner,  
13 and believe it ideally should have come sooner, it  
14 probably wouldn't have come soon enough to have shaped  
15 many of those orders in April and May.

16 **Q.** All right. You mentioned that some of your colleagues  
17 in the Department of Health (DHSC) would be able to  
18 provide more detail on the reasons for that time lag, if  
19 it was a time lag. And we've heard from some DHSC  
20 witnesses and we are yet to hear from others.

21 I will take you to a part of Mr Chris Young's  
22 witness evidence in a moment. He, of course, was the  
23 Director of Finance at the DHSC.

24 But before doing so, could I just invite you to  
25 comment on any other themes, any other emerging themes  
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1 first few months on PPE. And that was the critical  
2 period, that early phase, when most of the contractual  
3 spend was incurred. And at that point there wasn't the  
4 demand modelling, there wasn't the ability to scale  
5 domestic manufacturer, and that in turn then drove the  
6 reliance on overseas -- (overspeaking) --

7 **LADY HALLETT:** You weren't properly preparing?

8 **A.** Well, my Lady, we may come on to that, but if you look  
9 as an example at the Frankie Moslyn(?) decision, which  
10 actually, as Health Secretary, on advice from  
11 Lord Patrick Carter, I took the reluctant decision --  
12 I wanted to find a purpose for it, having spent so much  
13 money on it, but the commercial reality was actually the  
14 value for money decision on Lord Carter's very good  
15 advice, was not to continue that, and that is because  
16 keeping stock, warehousing stock, stock going out of  
17 date, the amount of stock you would need for a pandemic  
18 of this size comes at a significant cost. So for me, it  
19 was the ability to scale that was the more critical  
20 issue, rather than whether we had lots of PPE stock for  
21 something of a scale that would have come at a very big  
22 price to hold.

23 **LADY HALLETT:** That's what I meant by lack of preparedness.  
24 Not just the size of stockpile, but the ability to scale  
25 up.

1 **A.** My Lady, I think the key for me is the ability to scale  
 2 rather than having lots of stock ready for a pandemic.  
 3 Because that would go out of date and be expensive to  
 4 store.

5 **MR WALD:** When you say the ability to scale, do you mean  
 6 onshoring, an independent manufacturing capability?

7 **A.** So I think there's an interesting question around within  
 8 NHS tendering and procurement contracts, how one scores  
 9 the value of resilience versus the best price, not least  
 10 looking to the fact we have a spending review coming up  
 11 and there will be professional department spends, and  
 12 the reality was that, at the start of the pandemic,  
 13 there was very little domestic manufacture.

14 Linked to that also, I think there is work that can  
 15 be done and the Permanent Secretary of the Department  
 16 for International Trade did some work on this, looking  
 17 at what are the critical raw materials and other  
 18 elements that one needs as part of that supply.

19 **Q.** We may have moved out of your role as CST with that  
 20 question, but I'm conscious that --

21 **LADY HALLETT:** Blame me.

22 **MR WALD:** Excuse me?

23 **LADY HALLETT:** Blame me.

24 **MR WALD:** Well, I was just conscious that you had a wealth  
 25 of experience in other departments, so no harm, I doubt,

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1 made to the Prime Minister and the Quad, and why the  
 2 initial hundred million pounds which went to 500, that  
 3 then went to a billion pounds, that then went to  
 4 4 billion that went to 9 billion that went to 13-point  
 5 whatever, £6 billion. That is exactly why the envelope  
 6 was put in place.

7 I think to go to a spending envelope of over  
 8 £13 billion just within England, and I would draw your  
 9 attention, Mr Wald, to supps at the end of the year  
 10 where there was over 55 billion of additional health  
 11 spend, I think that is a stretch to suggest that  
 12 Treasury colleagues and indeed Treasury ministers, who,  
 13 when there's over 55 billion of additional spend, and  
 14 the envelope goes within a matter of two months to over  
 15 £13 billion, are not reflecting the risk appetite of the  
 16 Prime Minister and the Chancellor.

17 But I think at the same time, it is proper for  
 18 Treasury ministers to be asking questions of value for  
 19 money, but in a way that doesn't impede those supplies  
 20 getting to the frontline. And if one looks at the  
 21 evidence submitted to the Inquiry, one will see repeated  
 22 instances where I reluctantly agreed to spend, because  
 23 I don't want to see a contract lost because of its  
 24 impact on the front line, but I flag concerns with that  
 25 and the importance of conditions to try to better

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1 in having your view on that.

2 We have also touched on lessons learned. Can I just  
 3 take you, as I said I would, to part of Chris Young's  
 4 evidence. It's INQ000563070. And he touches on  
 5 a number of issues here, including that one about the  
 6 requests that were made of DHSC, effectively for  
 7 information that couldn't be provided. He says this:  
 8 "Finally, I feel that despite the best attempts of  
 9 all civil servants to find common ground; the risk  
 10 appetite for procurement of PPE of HMT Ministers was not  
 11 always aligned with that of the Prime Minister and DHSC.  
 12 I found that particularly at the outset of the pandemic,  
 13 where the focus was on obtaining PPE in order to save  
 14 lives, the need for fast paced decision making was not  
 15 compatible with the requests for information that were  
 16 being made by HMT. These requests, whilst  
 17 well-intentioned, were for information which was not  
 18 readily available and distracted people from the  
 19 immediate priority that had been communicated by the  
 20 Prime Minister and DHSC Ministers."

21 Do you think that's fair comment?

22 **A.** No. And let me explain why. I think firstly, as he  
 23 says there, there was a frequency in those first few  
 24 weeks, which is why we moved to the delegated model, and  
 25 indeed, that was the case that the Department of Health

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1 protect value for money within that spend.

2 **Q.** There's a balance to be struck, isn't there?

3 **A.** Of course.

4 **Q.** And I think what Mr Hall is -- Mr Young, excuse me, is  
 5 suggesting here, is that there were times when that  
 6 balance was struck wrongly so that what was intended as  
 7 a legitimate request for detail became a distraction.  
 8 You would disagree with that?

9 **A.** I would, and it was an argument that the Department of  
 10 Health ran with Number 10 on a number occasions,  
 11 which -- I've alluded to the example with Munira.  
 12 There's an example in the notes with the chief executive  
 13 of the UK Health Security Agency and I'm very keen to  
 14 put on record that Treasury officials worked remarkably  
 15 hard and long hours, to the point that one of my senior  
 16 officials, I was so concerned with the amount of work  
 17 she was doing, I spoke twice to the Permanent Secretary  
 18 to ensure that we were supporting. And that reflected  
 19 the massive amount of work we were doing to respond to  
 20 health in a timely fashion.

21 So the suggestion that the Treasury officials or  
 22 ministers were not responding in a timely fashion is not  
 23 one I accept.

24 **MR WALD:** Thank you, Mr Barclay.

25 My Lady, I'm on my final topic which is lessons

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1 learned.

2 **LADY HALLETT:** The trouble is we're running out of time,  
3 Mr Wald. We have 25 minutes of CP questions and we have  
4 another witness, and another 20 minutes of CP questions  
5 for that witness too.

6 **MR WALD:** Right, well, Mr Barclay, you've given your  
7 reflections, I think, on lessons learned. Is there  
8 anything you wish to add to them, and then I will sit  
9 down.

10 **A.** I will take my cue from my Lady and be succinct. So no.

11 **MR WALD:** So no, all right.

12 **LADY HALLETT:** If anything does occur to you and you want to  
13 submit it in writing, I'll be really grateful, obviously  
14 always ready to receive any thoughts, especially from  
15 someone who's been in your position.

16 Are you in any problems, we take a break for the  
17 stenographer, I'll reduce it to ten minutes because we  
18 are so short of time. Are you okay if we take the break  
19 now?

20 **THE WITNESS:** Of course.

21 **LADY HALLETT:** I shall return at 3.10.  
22 (3.00 pm)  
23 (A short break)  
24 (3.10 pm)  
25 **LADY HALLETT:** Mr Wilcock.  
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1 else involved, to factor such as whether that company  
2 had only recently been established or had no prior  
3 involvement in PPE supply?

4 **A.** Yes.

5 **Q.** Would it also have been relevant to consider the extent  
6 of company funds or historical turnover?

7 **A.** Yes.

8 **Q.** What about the fact that the company had been introduced  
9 by an intermediary who stood to make significant profit  
10 from any contract with the company involved? Would that  
11 have been a red flag as to whether the company was  
12 reputable or not?

13 **A.** Well, I think all three things are relevant. All issues  
14 relating to a contracting party are relevant to the  
15 department that is contracting with them.

16 **Q.** Do you agree that, sadly, a number of companies that the  
17 government/DHSC contracted with might be thought to have  
18 raised at least one of those red flags?

19 **A.** Well, that would be for the contracting party, but  
20 I think if -- so, in terms of what red flags there were,  
21 then those would be issues that would be looked at  
22 through the normal process by the accounting officer and  
23 the contracting party.

24 **Q.** I'm going to move on to a different topic and ask you to  
25 have a look at another document.  
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1 **Questions from MR WILCOCK KC**

2 **MR WILCOCK:** Mr Barclay, I have been encouraged to be as  
3 quick as I can with you and I'm sure you'd appreciate  
4 that as well. I'm asking you questions on behalf of two  
5 Core Participants, one is the UK Covid Bereaved Families  
6 for Justice, and the second is the Northern Ireland  
7 Covid Bereaved Families for Justice.

8 Can I start out by asking you what might be called  
9 UK-wide questions. You looked at a letter that you  
10 wrote with Mr Wald just after you started giving  
11 evidence, where you explained why conditions have been  
12 put on funding envelopes, in order to ensure that  
13 contracts were only entered into with what you termed  
14 "reputable companies". Do you remember looking at that  
15 letter?

16 **A.** Yes, I do.

17 **Q.** And the phrase was:  
18 "... reputable companies who we can reasonably trust  
19 will fulfil these contracts and provide safe equipment,  
20 and that public money is protected as far as possible in  
21 these challenges circumstances."  
22 Which I think we all understand.  
23 Do you agree that, in deciding whether a question  
24 was reputable, you would have expected attention to have  
25 been paid, whether by the accounting officer or anyone  
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1 Can we have INQ000109535 on screen, please.  
2 We will see this is a letter you sent to  
3 Matt Hancock on 16 July 2020.  
4 And once it's on screen, if we can go to  
5 paragraph 2.  
6 You will see, I hope, that you wrote that it was:  
7 "... disappointing to hear that the police, LAs  
8 [local authorities, I assume], some parts of the NHS and  
9 prisons have all incurred costs buying their own  
10 PPE ..."

11 With her Lady's leave, I'll come back to the passage  
12 about the devolved administrations later on.  
13 And you ended by saying:  
14 "Furthermore, these organisations have been buying  
15 from the wholesale market, at inflated prices which DHSC  
16 has been supplying at cost price."  
17 Now, many of the people I represent view this  
18 situation as wholly inappropriate and tantamount to  
19 profiteering by commercial wholesalers at a time when  
20 PPE was significantly constrained.  
21 Do you agree that purchasing items that DHSC had  
22 been providing at cost price at the inflated prices that  
23 the emergency had created amounted to such profiteering?

24 **A.** Well, firstly, I think there were in the early phase,  
25 challenges that were experienced by the Department of  
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1 Health in terms of their distribution. That is why the  
2 PPE portal was set up. But again, that was starting  
3 from zero base to set that up, and so there were  
4 challenges on distribution.

5 The reason for my letter to the Health Secretary was  
6 because I was concerned about the value for money of  
7 delegated funds allocated by the Prime Minister and the  
8 Chancellor then being used to supply wholesalers who  
9 then sold the other public bodies.

10 So that was done initially, on my understanding, by  
11 Health colleagues because of the distribution challenge,  
12 but I was very keen to see that curtailed because  
13 I didn't regard it as value for money.

14 **Q.** Do you regard it as profiteering?

15 **A.** By whom?

16 **Q.** By the people using the emergency to buy items -- sell  
17 items at inflated prices?

18 **A.** Well, I don't think the Department of Health should be  
19 providing to wholesalers if the portal could be put in  
20 place in order that they could then distribute that  
21 directly, and that was the issue that I was pressing on.

22 **Q.** Thank you.

23 Now, the letter goes on to refer to forceful  
24 requests from local governments, other government  
25 departments, GPs and pharmacies to reimburse PPE costs

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1 larger envelope with the Department of Health was so  
2 that they could use our embassy network, they could use  
3 economies of scale, and if individual public bodies were  
4 then contracting, the risk was they were contracting at  
5 less advantageous terms compared to the wider UK fund.

6 **Q.** Mr Barclay, we understand you wanting to say what you  
7 want to say but if you answered just the question, we  
8 will definitely not fall out with my Lady --

9 **A.** My apologies.

10 **Q.** -- and go over the 20 minutes.

11 Was any assessment undertaken of the additional cost  
12 to the public purse of the necessary reimbursement, ie,  
13 the difference between the receipts, from DHSC sales at  
14 cost, versus the commercial price paid by what we might  
15 call community providers?

16 **A.** My recollection is that the Health Secretary wrote to me  
17 in September following my letter, and subsequent work  
18 that the Department of Health had done to ensure that  
19 the envelope was then allocated to the respective  
20 bodies.

21 **Q.** Yes, but what was the additional cost? How much did the  
22 envelope have to be increased by?

23 **A.** The funding for the envelope was already there. The  
24 funding for the envelope from 2 June had gone to the  
25 13 billion level. So the envelope was there. Hence,

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1 that they have legitimately incurred because supply from  
2 DHSC was not available.

3 Can you tell us whether that actually happened?  
4 Were they reimbursed?

5 **A.** Yes. And I think, as the notes submitted to the Inquiry  
6 showed, I had a meeting with the devolved administration  
7 finance ministers. The minutes of that meeting have  
8 a series of comments from those finance ministers  
9 reflecting on the constructive nature of that  
10 engagement. Part of that engagement was them raising  
11 concerns --

12 **Q.** We'll come on to devolved administrations in a minute.  
13 At the minute I am just asking you about the local  
14 government department --

15 **A.** Well, the same issue applied to both, which is my  
16 concern from a value for money point of view that we  
17 were not double funding, that we were not funding bodies  
18 to procure PPE directly, and also funding the Department  
19 of Health through the very quickly expanded envelope,  
20 that had gone up to over £13 billion, which had been  
21 provided on the basis that they were funding public  
22 bodies.

23 So, firstly, my concern was we didn't want to be  
24 paying twice; and secondly, I was concerned about the  
25 inefficiency because part of the reason for having the

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1 the need for Health to reconcile that with the  
2 individual bodies.

3 **Q.** And can you say what the amount of that reconciliation  
4 would have involved?

5 **A.** I can't offhand but that would have been a discussion  
6 that Department of Health would have with the prison  
7 service, with the local authorities, with the police, so  
8 the quantum will vary depending on the amount --  
9 (overspeaking) --

10 **Q.** -- (overspeaking) -- I think we can understand why you  
11 might not be able to tell us immediately.

12 Can I move on to my second set of questions and  
13 they're about how the devolved administrations fitted in  
14 to the UK-wide procurement approach. We heard evidence  
15 on Monday from Mr Manley, who was then the Director  
16 General of the Covid-19 at the Foreign Office between  
17 March and September 2020, and he told us that on  
18 16 April, the Permanent Secretary of DHSC wrote to the  
19 devolved administrations to stress that they were going  
20 to trying to insist upon a kind of all-UK procurement  
21 approach. And I'd like, in that context, for you to  
22 look at INQ000336538, please.

23 While that's coming up, I hope we'll see that this  
24 is a letter of ministers of finance for the devolved  
25 nations, dated 12 May, to express their:

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1 "... collective concerns in regards to the limited  
2 supply of PPE currently being delivered through the  
3 proposed UK wide procurement approach. This has  
4 resulted [the letter goes on to say] in the devolved  
5 governments incurring significant costs to secure  
6 sufficient PPE to protect our frontline workers."  
7 Then, in the third paragraph, the devolved -- the  
8 ministers state that:  
9 "... the DHSC cannot currently guarantee the  
10 UK Government-led PPE procurement can meet the needs of  
11 the devolved [administrations]."  
12 Were you aware at that stage that the DHSC was  
13 unable to guarantee adequate PPE supply to the devolved  
14 administrations?  
15 **A.** Well, yes, that had been discussed with the finance  
16 ministers in the meeting I alluded to a moment ago. It  
17 is why the four nations protocol was being put in place.  
18 It is why I wrote to the Health Secretary in terms of  
19 encouraging him to address this. But again, it  
20 reflected, as in the earlier exchanges with Mr Wald, the  
21 fact that this was in May at the early phase of the  
22 pandemic when things were being worked at huge pace,  
23 distribution was a challenge, not just with the devolved  
24 administrations, but as per your earlier questions with  
25 local bodies such as the police and local authorities.

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1 telling us about?  
2 **A.** Yes, so there's two issues. The UK-wide fund was to  
3 cover PPE, but there was a concern that the devolved  
4 administrations in those first, that early phase of the  
5 pandemic had themselves unilaterally procured PPE, and  
6 therefore there was a question whether that was paid  
7 through the UK-wide fund or whether the funding was  
8 allocated to England only, through the Department of  
9 Health, and then subject to Barnett consequential that  
10 would then have applied to the Scotland administration.  
11 **Q.** So, many people in Northern Ireland in particular would  
12 like to know, were you told at the time that you agreed  
13 the UK-wide funding approach, the first envelope, that  
14 perhaps the DHSC might be unable to guarantee devolved  
15 administration supply? Were you aware at that stage?  
16 **A.** Well, the Department of Health was moving at huge pace  
17 to secure supply. The issue from a Treasury perspective  
18 was had we provided sufficient funds to enable them to  
19 do so. And I think the quantum that had been delegated  
20 shows that we had provided sufficient funds.  
21 **Q.** You think you had provided sufficient quantum?  
22 **A.** We had provided -- by 2 June we had provided over  
23 15 billion on a UK-wide basis.  
24 **Q.** And you thought that was sufficient?  
25 **A.** Yes.

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1 And it also reflected a challenge in that the  
2 devolved administrations were not under a duty to share  
3 their data with the UK government, so their burn rate on  
4 how much PPE they were using, they were not required to  
5 share with the UK Government. And to some extent,  
6 perhaps not surprisingly, they wanted the best of both  
7 worlds: to be able to procure independently whilst also  
8 having access to the UK-wide procurement pot.  
9 So those were natural early challenges as we rapidly  
10 scaled up in those first few weeks, but what I hope my  
11 letter to the Health Secretary and my exchanges with the  
12 finance ministers showed, was how we approached that in  
13 a very constructive spirit from a UK Treasury point of  
14 view with finance minister counterparts in order to  
15 address that and a subsequent letter from the  
16 Health Secretary in September shows that that work was  
17 done.  
18 **Q.** So that there is no misunderstanding, can we go back to  
19 the letter that you looked at with Mr Wald --  
20 INQ000109535 -- and go to the passage I summarised,  
21 where you wrote that you were also disappointed that:  
22 "... the Devolved Administrations are now seeking  
23 additional funding for existing purchases via the  
24 Barnett formula."  
25 Is that part of the exchanges you've just been

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1 **Q.** Finally, can we please have INQ000377395 on screen.  
2 This might have been part of the correspondence you  
3 told us about earlier, but it's an email actually dated  
4 15 May 2020 between various officials within the Welsh,  
5 Northern Irish and Scottish Governments about how they  
6 should respond to a letter from the DHSC looking for  
7 their views on the proposed four nations approach, where  
8 DHSC would manage a PPE fund on behalf of all four  
9 nations, on the basis that the Treasury believed that  
10 that was the most efficient way to procure PPE.  
11 That's the background to the correspondence.  
12 But if we go to the last paragraph, we can see that  
13 the officials involved suggested that a better way than  
14 the one that was being suggested to manage the proposed  
15 sensible four nations approach would be, and I quote,  
16 "to form a new 4 Nations PPE Procurement Group", to plan  
17 expenditure where "each administration would be an equal  
18 partner", and:  
19 "... its remit would be to plan future PPE  
20 expenditure. Where the PPE requirement of each nation  
21 overlap, this group could secure better value contracts.  
22 Where policies approaches have diverged, it would enable  
23 each nation to put in place local solutions either  
24 unilaterally or with one or more of the other nations."  
25 Were you aware of that proposal?

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1 A. Well, indeed, we had a meeting, just looking at my  
 2 notes, with the devolved administrations' finance  
 3 ministers on 19 May, where in my response -- obviously  
 4 I haven't seen the email which has been put up, which  
 5 I presume was --

6 Q. Well, you should have done. It was meant to be given to  
 7 your team.

8 A. Okay, well, then the error will be with me, not anyone  
 9 else. But in terms of that, if I look at the date, it's  
 10 15 May.

11 Q. Correct.

12 A. If I look at the minutes of the meeting on the following  
 13 Tuesday, 19 May, the quotes show that the finance  
 14 minister -- the minister for Wales saying that the  
 15 subsequent paper coming out of the exchange with  
 16 officials:

17 [As read] "The paper was really helpful in  
 18 recognising some of the challenges faced."  
 19 The finance minister for Scotland:  
 20 [As read] "This paper is very helpful in setting out  
 21 potential options, next steps."  
 22 And in my remarks in the meeting:  
 23 [As read] "These are unprecedented times and  
 24 unfortunately we are going to have to live with some  
 25 uncertainty during it. There is no magic bullet to  
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1 A. I think there will be a letter from me -- a letter from  
 2 Matt Hancock to me, dated 28 September:  
 3 [As read] "I appreciate the difficulties this  
 4 situation has caused for non-NHS public services among  
 5 departments working with ... to reimburse them for the  
 6 cost of clinical-grade PPE they have purchased."  
 7 Then I think he went on to address the DAs in that  
 8 letter but the substance of the letter was that there  
 9 had been work over the summer to address the funding  
 10 challenge that the DAs were facing through the UK-wide  
 11 funding.

12 MR WILCOCK: Okay.  
 13 Thank you very much, my Lady. We have been given  
 14 permission for other questions but in the circumstances,  
 15 I'm not going to ask them now, but we may seek to raise  
 16 them in written submissions later on.

17 LADY HALLETT: Of course, and if there's anything more you  
 18 require in writing, Mr Wilcock, I am really grateful to  
 19 you.

20 MR WILCOCK: We will do that as well. Thank you.

21 LADY HALLETT: Mr Thomas.

22 Questions from PROFESSOR THOMAS KC

23 PROFESSOR THOMAS: Good afternoon, Mr Barclay, my name is  
 24 Leslie Thomas and I'm representing the Federation of  
 25 Ethnic Minority Healthcare workers. I will be brief in  
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1 these issues given the crisis."  
 2 Finance minister for Scotland:  
 3 [As read] "This would be really valuable, especially  
 4 work to forecast on outcomes."  
 5 And indeed that reflects an earlier letter on 12 May  
 6 from the finance minister of Scotland, which pointed  
 7 out:  
 8 [As read "All countries are chasing the same supply  
 9 chains, which has become a sellers' market. DHSC's  
 10 proposal for a four nations approach which delivers the  
 11 PPE we require to meet our needs providing some  
 12 flexibility to enable our procurement. If it doesn't,  
 13 respecting the ... which you expressed last week that  
 14 these costs are not double funded", et cetera.  
 15 So I think the challenges we're talking about again  
 16 mid-May, a very early phase of --

17 Q. Everyone accepts that.

18 A. -- of this. The challenges were collective. The  
 19 finance ministers were working very constructively  
 20 together, and I would suggest that the minutes of the  
 21 19 May meeting shows that the UK Treasury was engaging  
 22 very constructively with the finance ministers and very  
 23 much engaging with the concerns raised.

24 Q. Are you able to tell us whether or not what resulted, in  
 25 terms of the two possibilities?  
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1 relation to the questions I ask you. I don't think you  
 2 have been asked about these issues yet.  
 3 Firstly, help us with this: what systems did you  
 4 utilise to ensure that the Treasury's Covid procurement  
 5 adhered to public law principles of transparency,  
 6 equality, and fairness in the use of emergency contracts  
 7 and direct awards?

8 A. Well, firstly we applied Managing Public Money, and as  
 9 you will see from the records, I specifically sought  
 10 advice from officials in April 2020 where the delegation  
 11 of a billion pounds, the initial sort of significant  
 12 delegation within the spending envelope, was consistent  
 13 with Managing Public Money, and indeed asked if it was  
 14 consistent with the ministerial code. And I was  
 15 confirmed by officials to the affirmative that it was.  
 16 Secondly, as I alluded to earlier in evidence, at  
 17 repeated points I ensured that there was transparency in  
 18 communication to the National Audit Office and to the  
 19 C and AG, to ensure that that was done.  
 20 And third, we worked with other government  
 21 departments to ensure that there was wider government  
 22 scrutiny, including external scrutiny, and indeed, for  
 23 example, the Ernst & Young report that confirmed,  
 24 I think it was early June, but there was an Ernst &  
 25 Young report at quite an early stage, again confirming  
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1 the challenges of supply and endorsing that the  
2 government's approach was the right one.  
3 **Q.** Thank you. Your statement at paragraph 25, that's  
4 INQ000574180, we don't need to call it up, but I think  
5 we've got your statement there. You mention that the  
6 usual procedures were altered for expediency with senior  
7 officials overseeing these decisions.

8 My question is this: how did the Treasury ensure  
9 that the Public Sector Equality Duty was upheld during  
10 these changes, and were the equality impact assessments,  
11 EIAs, conducted before making procurement decisions  
12 affecting frontline healthcare workers? To put it in  
13 a nutshell, do you believe that the Public Sector  
14 Equality Duty played a substantive role in shaping  
15 equitable procurement practices as opposed to just being  
16 a tick-box exercise?

17 **A.** Well, I would argue ensuring sufficient finance was in  
18 place to protect supply to frontline services was  
19 essential to meeting any such duty, not least because,  
20 within the NHS, often those communities most at risk  
21 were those most reliant on ensuring that we maintained  
22 PPE supplies. So I think firstly, securing supply was  
23 essential, and that is what the Treasury did.

24 Secondly, on the specific point of the delegation,  
25 from memory, I think that was to small sums of quantum

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1 was consistent with that duty, not against it.

2 **LADY HALLETT:** Thank you very much, Mr Thomas, I'm sorry,  
3 we've got another witness waiting in the wings. I'm  
4 really sorry.

5 Thank you very much indeed, Mr Barclay. I'm sorry  
6 if it seems a bit rushed. Sometimes the timetabling of  
7 witnesses works perfectly and other times not so  
8 perfectly, and I'm afraid we have one of your former  
9 colleagues waiting in the wings to give evidence.

10 **THE WITNESS:** Of course.

11 **LADY HALLETT:** So thank you very much for your help to the  
12 Inquiry, I appreciate how busy you must be, so really  
13 grateful to you and as I say, if anything does occur to  
14 you, please write in and we'll bear it very much in  
15 mind.

16 **THE WITNESS:** Thank you very much.

17 **LADY HALLETT:** Thank you.

18 Mr Wald?

19 **MR WALD:** My Lady, our next witness this afternoon is Lord  
20 Feldman, who is see is just taking up position.

21 **LADY HALLETT:** I'm sorry you've had to wait. I think you  
22 have to think back to your days as a practising  
23 barrister, Lord Feldman, to remember that timetabling of  
24 witnesses doesn't always work.

25 **THE WITNESS:** No, no, it's pretty good, though.

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1 of around £10 million but it reflected to the point  
2 earlier with Chris Young's evidence, which was in that  
3 early phase of the pandemic, there were so many  
4 contracts it was necessary to reflect the urgency and  
5 the speed and have more flexible arrangements in place,  
6 and that is why the delegation was granted.

7 **Q.** But, sorry, you haven't answered my question, because  
8 what -- part of my question was during these changes  
9 -- and I fully appreciate that you needed to act with  
10 expediency. I get that. It was a pandemic. My  
11 question was: how did you ensure that the Public Sector  
12 Equality Duty and so, for example, impact -- equality  
13 impact assessments -- were conducted properly? How was  
14 this overseen?

15 **A.** Well, that would be for the contracting party to do  
16 that, which would be the Department of Health. But  
17 again, I think there was a recognition that there was  
18 a huge urgency around the contracts but it would be for  
19 Health colleagues to address.

20 **Q.** Urgency doesn't mean that the Public Sector Equality  
21 Duty is thrown out, though, does it?

22 **A.** No, but I -- as I say, it would be for the contracting  
23 party to answer how they met that duty, but if I was  
24 pushed, my Lady, I would suggest that ensuring that  
25 there was sufficient supply of PPE to frontline services

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1 **MR WALD:** If the witness could be sworn or affirmed, please.

2 **LORD ANDREW FELDMAN (sworn)**

3 **LADY HALLETT:** Mr Wald.

4 **MR WALD:** Thank you, my Lady.

5 **Questions from LEAD COUNSEL TO THE INQUIRY FOR MODULE 5**

6 **MR WALD:** Please state your full name for the Inquiry.

7 **A.** Yes, Andrew Simon Feldman.

8 **Q.** Thank you. And Lord Feldman, thank you also for  
9 providing to the Inquiry a witness statement. It's  
10 INQ000540486, which you have signed. Will you please  
11 confirm that it is true to the best of your knowledge  
12 and belief?

13 **A.** Yes.

14 **Q.** Yes. Lord Feldman, by way of background, I don't think  
15 we'll go quite far as back as your time at the Bar but  
16 you are -- your current role, you are CEO of Teneo's UK  
17 strategy and communications business, a PR and advisory  
18 company; is that right?

19 **A.** That is correct, yes.

20 **Q.** And you were previously managing partner of Tulchan  
21 Communications until it was acquired by Teneo?

22 **A.** Yes, that's correct.

23 **Q.** You are also director of Andrew Feldman Associates?

24 **A.** Yes, that's correct.

25 **Q.** What does Andrew Feldman Associates do?

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1 **A.** It is just a business where all of my non-Teneo  
 2 interests, so non-exec directorships, philanthropic  
 3 stuff, is managed through that.  
 4 **Q.** Thank you.  
 5 Let's move to the period in which we are focused for  
 6 the purpose of this Inquiry and this module of this  
 7 Inquiry. Between 23 March 2020 and 15 May 2020 you  
 8 served as an unpaid volunteer assisting in the challenge  
 9 of emergency procurement --  
 10 **A.** Yes, that's correct.  
 11 **Q.** -- of PPE.  
 12 **A.** Yes.  
 13 **Q.** And just of PPE?  
 14 **A.** It did occasionally -- there were other bits of medical  
 15 equipment that came across my desk, you know, that  
 16 were -- that were referred to me, but overwhelmingly,  
 17 PPE.  
 18 **Q.** You have served, over the course of a period of  
 19 18 years, between 2008 and 2016, as Chair of the  
 20 Conservative Party?  
 21 **A.** Yes -- well, I was deputy treasurer from 2005 to 2008,  
 22 2008 to 2010, I was CEO, and 2010 to 2016 I was  
 23 chairman.  
 24 **Q.** I see, thank you for that correction. You were first  
 25 asked, were you not, to volunteer by Lord James Bethell

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1 **Q.** Perhaps it's a shorthand but is that the matter to which  
 2 you refer at paragraph 4 of your statement when you say  
 3 that your extensive business contacts would be useful to  
 4 DHSC?  
 5 **A.** No, I -- well, that's partly, yes. But I think also, in  
 6 my career both in politics and then subsequently in  
 7 business I advise a lot of, and have advised a lot of  
 8 different companies. I know a lot of businesses, a lot  
 9 of businesspeople. You know, both from within the  
 10 clothing business and beyond.  
 11 **Q.** You say that with one sole exception, Bunzl, the  
 12 contacts that you had or perhaps have, were not within  
 13 the medical equipment and supply business?  
 14 **A.** That's correct.  
 15 **Q.** Did you feel or do you feel that that placed you at any  
 16 disadvantage in the role you were asked to take up?  
 17 **A.** Normally speaking in, sort of, peacetime, I would have  
 18 been surprised to get the phone call, but in this  
 19 particular situation I understood from James and also  
 20 just from reading the newspaper and watching the news  
 21 that there were two massive challenges. One was that  
 22 there was a desperate shortage of PPE and by which  
 23 I soon discovered, it was days' not weeks' supply of PPE  
 24 that were available, and that PPE, in particular things  
 25 like masks and gowns, both in terms of the sourcing of

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1 on or around 20 March 2020?  
 2 **A.** Yes, that's correct.  
 3 **Q.** And you two knew each other socially and from your time  
 4 as chair of the Conservative Party?  
 5 **A.** Yes.  
 6 **Q.** He told you, did he not, that there were severe  
 7 shortages of PPE and other critical equipment and  
 8 supplies, and that the normal supply chain was not able  
 9 to support the demand?  
 10 **A.** Yes.  
 11 **Q.** Yes. What reason did he give you specifically for  
 12 enlisting your assistance?  
 13 **A.** Well, he knew that when I left the Bar in 1995, my  
 14 father was taken ill and I had to leave my chambers to  
 15 go and run the family business which is a clothing  
 16 manufacturing business, and I ran that full time for  
 17 10 years and part-time for another 12 years, so 22 years  
 18 in total. And we essentially manufactured clothing for  
 19 the UK high street, so, you know, lots of well-known  
 20 high street names, and a lot of that sourcing, the  
 21 overwhelming majority of the materials came from China  
 22 and the manufacturing was from across Asia, so China,  
 23 Vietnam, Sri Lanka, Bangladesh, so he knew that I  
 24 understood supply chains, global supply chains, and  
 25 understood sourcing.

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1 the materials and the assembly of them, you know,  
 2 resemble quite closely clothing manufacturing, because  
 3 you buy the components and then you send them to  
 4 a different factory to assemble them.  
 5 But I understood there was a desperate shortage in  
 6 the UK, as I say, days of supply.  
 7 Then the second thing was that I knew that or  
 8 I suspected that the vast majority, the overwhelming  
 9 majority of those materials came from a small number of  
 10 factories in China, and that the pandemic had broken out  
 11 in China, so there were 1.4 billion people that needed  
 12 equipment, and then the rest of the world was descending  
 13 on those factories trying to get equipment.  
 14 So it wasn't so much a question of needing deep  
 15 technical knowledge; it was experience about how supply  
 16 chains work and how one might be able to access  
 17 different, you know, different sources of supply, and  
 18 access those narrow -- that narrow base of factories  
 19 that were available.  
 20 **Q.** I'll come on to it in a few moments but part of the  
 21 reason for asking that particular question,  
 22 Lord Feldman, is that, unlike some of the other  
 23 witnesses that have given statements and oral evidence  
 24 to this Inquiry, an example would be Michael Gove, who  
 25 appeared and gave evidence earlier this week, you

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1 triaged or assessed offers as they came in?  
 2 **A.** Yes.  
 3 **Q.** Mr Gove described himself as a postbox --  
 4 **A.** Yes.  
 5 **Q.** -- simply referring on offers that came his way?  
 6 **A.** Yes.  
 7 **Q.** But is it right that you, when an offer came your way,  
 8 assessed the credibility or the solidity of that offer  
 9 before troubling others with it?  
 10 **A.** Yes. So the way I would describe it is -- I mean, just  
 11 to give you some context, I was sitting on my own in my  
 12 office at home. I was -- I never met any -- apart from  
 13 Matthew Hancock and James Bethell, I never met any of  
 14 the people I was interacting with physically. I never  
 15 met Max Cairnduff or Andy Wood or Chris Hall or any of  
 16 the other civil servants.  
 17 I had two civil servants assigned to me, who were  
 18 two -- and I was given a DHSC laptop, and they were to  
 19 monitor all offers that I was given. And then they were  
 20 to help guide me about how I could help, because  
 21 I didn't really, as it were, see behind the curtain.  
 22 I didn't really know how procurement was working in the  
 23 department and I didn't have visibility.  
 24 So my job was to -- as I say, there was a very  
 25 narrow possible source of supply in China for this

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1 **A.** Yes.  
 2 **Q.** -- what was it?  
 3 **A.** It was to ... so, the -- as I understood it, when  
 4 I arrived, the reason he phoned me was because the  
 5 department was totally overwhelmed by offers of PPE,  
 6 both through the sort of the mailbox they set up and  
 7 through recommendations from officials and MPs and  
 8 ministers, and they couldn't really cope with, sort of,  
 9 sorting the wheat from the chaff, working out whether  
 10 these offers were even remotely credible.  
 11 And he said, "I need you to cast your eye over some  
 12 of the offers -- they'll be directed to you by  
 13 officials, and to say -- they might look good in the  
 14 official email but is there anything behind them, and to  
 15 give a sort of view. And if you think there is, then to  
 16 either speak directly to -- you know, speak directly to  
 17 the officials, through the office, the sort of virtual  
 18 office we set up for you, to sort put them into the flow  
 19 and to help us to, you know, advance what could be  
 20 interesting offers."  
 21 And what I would say to you is, my sensation is that  
 22 there were very, very few offers that were either not  
 23 already being considered, you know, not through the  
 24 existing supply chain, not being considered, you know,  
 25 through, let's say, China, you know, the embassy in

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1 equipment, and my job was to try, through a series of  
 2 questions -- you know, when I was given an offer or when  
 3 an offer came in to me -- to try to assess whether it  
 4 was serious. That is to say, did that person have  
 5 genuine access to potential large quantities of PPE in  
 6 China? And did they have experience of dealing in China  
 7 which would make that interesting? And then -- and were  
 8 they sort of -- did they seem like credible people when  
 9 I spoke to them? And then I passed it on.  
 10 But the process of technical assessment of the  
 11 offer, deciding whether an order should be placed, at  
 12 what price, the logistics behind it, that all went --  
 13 was sort of handed over to civil servants.  
 14 **Q.** So let me ask you this: was either your role or the  
 15 criteria that you applied to a given offer defined, set  
 16 down anywhere?  
 17 **A.** I mean -- well, I had a volunteering contract, and I --  
 18 but -- and I was told by James what he wanted me to do.  
 19 **Q.** Lord Bethell?  
 20 **A.** Lord Bethell, sorry. I was told by Lord Bethell what he  
 21 wanted me to do.  
 22 **Q.** And you directly reported to Lord Bethell?  
 23 **A.** I directly reported to him, yeah.  
 24 **Q.** What did he tell you -- if he gave you any description  
 25 of your role --

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1 China, that were credible. But you had to speak to  
 2 a lot of people to establish, you know, the one or two  
 3 or three or half a dozen that could be potentially  
 4 interesting.  
 5 And so I could understand why they needed extra  
 6 manpower to do that, because it was, you know -- I think  
 7 at one point there were 7,000 offers --  
 8 **Q.** Let me just focus you, before I turn to the deluge of  
 9 offers, to the second part of my question: the criteria  
 10 that you applied in assessing whether an offer was worth  
 11 pursuing.  
 12 **A.** Yes.  
 13 **Q.** Was that left to you? Was that a judgement that you  
 14 exercised without guidance or without criteria set out  
 15 by anyone else?  
 16 **A.** I think it was for the most part, although what happened  
 17 is I started to interact with people like Andy Wood and  
 18 Chris Hall, Max Cairnduff -- mainly Chris Hall --  
 19 I started to get more of an understanding of the lessons  
 20 that they were learning, of the things that were working  
 21 and the things that weren't working, and also a bit more  
 22 context about the broader backdrop of the offers that  
 23 were coming in and the sort of supply constraints.  
 24 So I would say that I started off with a short  
 25 briefing and then I kind of had to learn on the job.

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1 **Q.** Chris Hall, we can turn to it if you wish to, in his  
2 statement says that "Lord Feldman ... was very effective  
3 at generating new leads".

4 **A.** Yes.

5 **Q.** He also says that:

6 "His assistant frequently contacted the [High  
7 Priority Lane] seeking updates from the team in relation  
8 to contacts which Lord Feldman had introduced to the  
9 Buy Cell ..."

10 Is that right? Did you frequently follow up to seek  
11 updates as to how offers that you had fed into the High  
12 Priority Lane were faring?

13 **A.** So, to answer the first part, which is -- the way in  
14 which I provided interesting leads was by phoning people  
15 that my private office, the two officials, gave me to  
16 look up, or there was incoming -- people who knew me or  
17 knew I was involved in the process approached me with  
18 offers of help. So those were the two main sources.

19 As I said, my actual knowledge of PPE suppliers in  
20 the world was, you know, confined to Bunzl. But --

21 **Q.** So some came to you, others you went to?

22 **A.** Well, some came to -- no, almost everything came to me,  
23 either through officials -- well, everything came to me  
24 through officials or through people contacting me  
25 directly.

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1 referrer a factor in your assessment?

2 **A.** No, no, not at all. I was only interested in: is this  
3 something that's going to, you know, help -- help deal  
4 with this crisis? Is this a creditable offer of  
5 equipment? I wasn't in the least bit interested about  
6 the political affiliation. And in fact, in terms of the  
7 suppliers themselves, I had absolutely no idea what  
8 their -- you know, the people actually doing the  
9 supplying, I -- for the vast majority of cases, I had no  
10 idea what their political affiliation was.

11 **Q.** Let's move on, then, to the request for updates.

12 **A.** Yes.

13 **Q.** We've heard a little bit about that up until now in this  
14 module. We know from Chris Hall's evidence -- I think  
15 you've just confirmed it -- you did, on occasion, follow  
16 up on offers that you had fed into the VIP Lane or the  
17 High Priority Lane.

18 **LADY HALLETT:** Lord Feldman said that his officials did. He  
19 wouldn't know how to.

20 **MR WALD:** So you asked that that be done?

21 **A.** Well, not really, no. I think they just took it on  
22 themselves.

23 The point is that James Bethell was dealing with an  
24 urgent situation, and he was conscious that I didn't  
25 really understand how the machine worked, and so what he

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1 So -- but what I would say, the description that he  
2 gives is these two very conscientious hardworking  
3 officials that were assigned to me, they kept a sort of  
4 record of every single interaction I had and they  
5 thought it was their job to then chase it up.

6 The truth is, I would have had no idea how to chase  
7 it up or, indeed, who to speak to. So they saw their  
8 job as: look, we've bought Lord Feldman in, he's trying  
9 to help, he's triaging all these opportunities, our job  
10 within the system is to make sure that they're being  
11 followed up.

12 **Q.** Did the majority of those who came to you know you  
13 through the Conservative Party?

14 **A.** It was a mixture. A real mixture. I had some who knew  
15 me -- and remember, these are referrers, so the  
16 suppliers themselves, no, none -- you know, none of them  
17 came to me through politics.

18 Some of the referrers, people like Lord Leigh,  
19 Lord Chadlington, they came to me because they knew me  
20 through politics, and then other people might contact me  
21 because, you know, they'd met me in business or they'd  
22 heard about -- heard that I was doing the job. Often it  
23 was simply that they'd heard that I was doing the job.

24 **Q.** When you were assessing an offer for its credibility,  
25 was affiliation to the Conservative Party of the

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1 did is he put in place, in 24 hours, the sort of -- what  
2 looked like a mini private office. So I had two  
3 officials working virtually, I was given a DHSC laptop  
4 and a mobile phone, and I was -- and then, you know,  
5 signed a volunteer agreement, filled out a declaration  
6 of interest or conflicts form, and off I went.

7 Now -- so I think the officials were instructed by  
8 James Bethell, Lord Bethell, to make sure that if  
9 I was -- that what I was doing was effective, that, you  
10 know, if there was a good lead, it wasn't somehow lost  
11 in the system. So I think it was on their initiative,  
12 if I can say it that way.

13 **Q.** Okay you've made that very clear.

14 **A.** Yes.

15 **Q.** Let's have look at INQ000551322, please:

16 "Adam -- I'm getting a bit frustrated ..."

17 Let's take it from the bottom.

18 "Adam,

19 "This is very helpful. I have copied the UK PPE  
20 procurement team who I am sure will reach out to  
21 [redacted]."

22 So this is directly from you.

23 **A.** Yes.

24 **Q.** Who is Adam, do you recall?

25 **A.** Adam is the person -- so a little bit of context here.

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1 One -- this was 12 April. Matthew Hancock, the  
2 Secretary of State, was extremely exercised about the  
3 shortage of gowns. I was told that there were  
4 three days' supplies of gowns in the system. And he --  
5 and James Bethell, Lord Bethell had communicated that to  
6 me. And there was real anxiety that -- and frankly,  
7 I was hearing it from my friends who are doctors on the  
8 front line that people were possibly going to be sent in  
9 in bin bags, you know, to turn patients on ventilators.  
10 It was very serious.

11 And an opportunity came in through this company  
12 called Nine United, a guy called Adam Dantzer, and he  
13 was -- it came in to the Secretary of State, it came in  
14 to the officials, and I was asked to look at it. And it  
15 was quite exciting because he -- the sort -- Nine United  
16 was the procurement arm of a Danish retailer called  
17 Bestseller, a very large Danish retailer who was already  
18 supplying at scale to the Danish government. And I'll  
19 be frank, these kind of things didn't come in very  
20 often, it was a sort of hen's tooth. You know, it was  
21 an established source of supply of gowns, I think they  
22 were offering over a million gowns a week, and it was  
23 already credentialised by the fact that it was being  
24 sold to the Danish government.

25 So I was excited by this because I knew -- and this  
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1 Cairnduff. Once it had been referred to him and then  
2 Adam, the supplier, phoned me up and said, "Look, it's  
3 not moving forward and I'm worried we're going to lose  
4 the offer, I'm going to lose the opportunity to get the  
5 gowns", it would be natural for me to say, "Oh, that's  
6 annoying, that's frustrating, I don't know why no one is  
7 getting back to you, let me give it a chase."

8 And I think that's not the same as trying to  
9 understand how an offer which I've passed on has been  
10 acknowledged, is then progressing through the different  
11 phases of technical assurance and, you know, all the  
12 different phases of the system.

13 **Q.** Let's just look at -- go back to here. Do you see on  
14 this, on the screen, it says:

15 "On behalf of Covid PPE Priority Appraisals  
16 Mailbox."

17 Do you recognise that description? That's the  
18 VIP Lane or the HPL.

19 **A.** To be honest, I didn't really know -- I mean, that was  
20 a mailbox I was told to send things to. I didn't ever  
21 have this phrasing "High Priority Lane". I didn't  
22 really know what that was. That was just one of the  
23 inboxes, in the same way that I had Max Cairnduff's  
24 email and Chris Hall's email that I, sort of, my  
25 officials told me to send things to.

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1 was at a time, you will recall, where a shipment of  
2 Turkish gowns came in, you know, which all had to be  
3 rejected and it was a front-page news story. So there  
4 was deep anxiety about it. So I was sort of excited  
5 about this and thought, well, this could be a real thing  
6 so I --

7 **Q.** Why had you become frustrated, Lord Feldman?

8 **A.** Sorry, which one?

9 **Q.** At the top:

10 "Adam, I'm getting a bit frustrated."

11 **A.** Who am I writing to? Adam?

12 **Q.** You're writing to Adam.

13 **A.** Yes, and I'm just saying I'm getting a bit frustrated  
14 that this isn't being picked up because I think this is  
15 a great opportunity.

16 **Q.** Is that not an example of you following up on an offer,  
17 on a possible opportunity?

18 **A.** Yeah, yeah, and I'm not saying for one moment that I  
19 didn't from time to time do that. I --

20 **Q.** I thought you said that you wouldn't know how, that  
21 others in your office -- (overspeaking) --

22 **A.** Well, this is because I had already specifically  
23 referred it to -- look, there's a difference between,  
24 and this is important, there's a difference between once  
25 I'd referred something, I think this was referred to Max

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1 **Q.** Let's just finish up on this document if we could scroll  
2 up to the top of it.

3 "Max on it as well", you say. This is all on  
4 a Sunday, isn't it, 12 April?

5 **A.** Yeah.

6 **Q.** And then if we go back, Matt Hancock:

7 "On PPE do you have good enough leads into the  
8 system?"

9 "Ministerially it's not technically James's gig --  
10 do you feel like you can get the system to respond?"

11 That's all to you.

12 **A.** Yes.

13 **Q.** And then if we just look at the top, you reply:

14 "It's getting much better. Max and Chris seem more  
15 on it. Yesterday I fed in 5 leads -- 4 serious -- and  
16 they followed up. When I sent stuff to Andy Wood it  
17 seemed to die ... he was overwhelmed.

18 "This Danish offer is a bit different and requires  
19 some more flexible thinking -- so it got stuck ... Max  
20 now seems to be on it ... although not sure why approval  
21 should take a few days."

22 So this is an example, you would say, of an offer  
23 that is for some reason getting stuck and where you  
24 would intervene directly; is that right?

25 **A.** Well, I think that, you know, when I say it got stuck,

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1 what I'm referring to is it doesn't even get past the  
 2 first base, which is it's not even being considered and  
 3 the reason this is -- and the bit that's getting stuck  
 4 is that there is an offer from the Danish Government to  
 5 speak to the British Government about this route. So  
 6 it's the sort of early stage of credentialising the  
 7 offer. That's the bit that is concerning me, because  
 8 I'm thinking this is something which is very unusual,  
 9 it's a very unusual type of offer because it's already  
 10 being used by another government, a friendly government,  
 11 and so that's the bit that I'm trying to sort of move  
 12 through and it's, you know, within the first couple of  
 13 days of the interaction.

14 **Q.** Understood.

15 I think it won't be controversial that other offers  
 16 that came in that didn't catch your attention for  
 17 whatever reason were unlikely to receive this sort of  
 18 treatment unless there was some other senior referrer  
 19 involved?

20 **A.** Well, I think I've explained to you why I thought this  
 21 was very interesting, the combination of the timing, the  
 22 product that was being offered --

23 **Q.** Not quite what I was asking. You've explained why you  
 24 were interested in this offer.

25 **A.** Yes.

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1 on, the PPE Cell, the High Priority Lane, ways of, as it  
 2 were, that the Civil Service was designing to manage the  
 3 vast amount of suggestions that were coming in to them,  
 4 which I was not privy to. I wasn't at the meetings,  
 5 I wasn't in the discussions about the design of it. And  
 6 it felt to me, if I can say, that this team were working  
 7 really hard to sort of build the plane while they were  
 8 flying it. You know, this all happened, this is  
 9 12 April, you know, the email exchange we're looking at,  
 10 this is within days of them actually coming together as  
 11 a team and trying to work out how to manage these  
 12 offers.

13 So I literally had no idea. For example, I didn't  
 14 know whether Max Cairnduff was Chris Hall's boss or the  
 15 other way round. I didn't know the relative seniority,  
 16 I didn't know how they related to Andy Wood. They were  
 17 just people whose emails I was given to get in contact  
 18 with, and that's the sort of nature of my role. And  
 19 I think it was to some extent deliberate, because  
 20 I think that I was seen as -- I think Chris Hall  
 21 describes me as an envoy, I think I was seen as  
 22 a helpful envoy to triage some offers of help and feed  
 23 them into the system but how the system processed them,  
 24 what they did with them, was invisible to me, which is  
 25 why, when something like the Nine United offer, you

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1 **Q.** There would have been a great many other offers of which  
 2 you would have had no involvement, no knowledge, that  
 3 simply wouldn't have had this treatment. They wouldn't  
 4 have occupied any of your bandwidth --

5 **A.** You mean offers through other routes?

6 **Q.** Through other routes.

7 **A.** I've got no idea.

8 **Q.** You've got no idea?

9 **A.** Literally I've got no idea.

10 **Q.** All right. You say in relation to the High Priority  
 11 Lane that you were unaware of it until you saw media  
 12 reporting about it?

13 **A.** Yes.

14 **Q.** I've shown you one reference to an email that is  
 15 a specific email for the High Priority Lane, but you  
 16 never --

17 **A.** It's not described as that though, is it? That's not  
 18 what the email says.

19 **Q.** But you worked with Max Cairnduff, didn't you?

20 **A.** Yes.

21 **Q.** What did you think his role was? What did you think he  
 22 did?

23 **A.** I know it's hard to imagine because it's sort of very  
 24 not how these things work, but it was sort of like there  
 25 was a curtain behind which different things were going

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1 know, felt like I was very excited about it, and  
 2 I couldn't see what was happening, it's because  
 3 I literally couldn't understand what was happening to  
 4 it. I couldn't see how it was being processed.

5 So I sort of thought: you know, don't miss this one,  
 6 I know we're absolutely desperate for gowns and, you  
 7 know, this is a million gowns a week, it's possibly  
 8 a really great opportunity. So that's the context.

9 **Q.** Lord Feldman, I'm conscious of time.

10 **A.** Of course.

11 **Q.** Let's move on, if we may.

12 **A.** Of course.

13 **Q.** Paragraph 9 you tell us that you were --:

14 "I am aware that in the HPL list published by the  
 15 DHSC, I am described the actual referrer to the HPL of  
 16 three companies."

17 **A.** Yes.

18 **Q.** "Mazima (sic), SG Recruitment, and Skinnydip".

19 Those, of course, are only -- they're the three that  
 20 resulted in contracts, aren't they?

21 **A.** I've now found out. I had no idea.

22 **Q.** But you must know that you referred in many more than  
 23 three offers into the High Priority Lane?

24 **A.** Well, that's the point. I didn't know -- there were  
 25 many more than three, I suspect, offers that I triaged

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1 that ended up in contacts, but they may not have been  
2 defined, which was a definition which was operated by  
3 the Department, as suitable for the High Priority Lane.  
4 So I have no visibility about the offers I triaged,  
5 those I recommended and those which ended up in  
6 purchasing. So I don't really know but I'm now finding  
7 out through the evidence that's been shared with me that  
8 three of the 18 that were referred, and which Chris Hall  
9 managed ended up in contracts.

10 Do you see there's a distinction? Because  
11 I wouldn't have known whether there were other offers  
12 that I might have put forward which weren't handled  
13 through the High Priority Lane, but I wouldn't have  
14 known that because I didn't know how they were processed  
15 internally, what qualified for that description.

16 **Q.** We know also from Chris Hall's evidence that on some  
17 occasions you made explicit the connection with the  
18 Conservative Party and on other occasions you did not  
19 do so.

20 **A.** No, so let me explain that.

21 **Q.** Well --

22 **A.** Because I can't recall every single offer that I might  
23 put forward, and I haven't seen all of the  
24 correspondence of every single offer that I put forward,  
25 I can't say with certainty whether I, in every single

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1 if you were anxious, as you say you were, to be  
2 scrupulous about any possible connection to the  
3 Conservative Party --

4 **A.** Yes.

5 **Q.** -- in order that anyone handling the offer should be  
6 aware of that, why is it that it was only on occasion  
7 that you made that explicit, according to Mr Hall, but  
8 on other occasions you did not do so?

9 **A.** I think that he may be referring to offers that he saw  
10 which possibly are ones that I didn't handle. So if you  
11 read it, "I was unaware at the time that the supplier  
12 had any links to the Conservative Party while in others  
13 Lord Feldman made the connection explicit."

14 So, I don't know, you'll have to ask Chris Hall. He  
15 might have been referring to offers through other  
16 referrers of suppliers not me. But I think that, as  
17 I say, my recollection is that where there was a link,  
18 I made it explicit.

19 **Q.** And where you made it explicit, it wasn't at all for the  
20 purpose of vouching for them in any way "I know this  
21 person through my connections, you can rely on what they  
22 are saying or offering"?

23 **A.** No, I think what I said just now was that to some extent  
24 I was credentialising them. So if you imagine, I knew  
25 that there inboxes were full of thousands of offers of

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1 case, disclosed the connection with the Conservative  
2 Party. What I was endeavouring to do was two things:  
3 first of all, to credentialise the offer by saying look,  
4 this has been introduced by somebody that I know, and  
5 the second thing, which I think is important, is to be  
6 completely transparent where there was a political  
7 connection, because I wanted -- you know, I didn't want  
8 the person handling the opportunity to find out  
9 subsequently and think that somehow or other I hadn't  
10 been straight with them.

11 So I was trying to be very, very open and  
12 transparent in the way in which I communicated about the  
13 offers. I don't -- I mean, it may be that there are  
14 some offers that I didn't do that, but I'm not --  
15 I can't recall.

16 **Q.** We can turn to it if it helps, but what Mr Hall says is  
17 that:

18 "In some cases I was unaware at the time that the  
19 supplier had any link to the Conservative Party, while  
20 in others Lord Feldman made the connection explicit."

21 So I suppose the question for you, Lord Feldman --

22 **A.** Well, if I --

23 **Q.** If I could just pose the question, please?

24 **A.** Sure.

25 **Q.** I suppose the question for you, Lord Feldman, is this:

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1 help. So I was sort of saying, "look, I know the person  
2 who has made this introduction is probably worth looking  
3 at." You know, that's another factor to take into your  
4 mind, plus the point about, you know, demonstrating the  
5 Conservative connection so that I was transparent  
6 about it.

7 **Q.** Let's take a concrete example, if we may,  
8 SG Recruitment.

9 **A.** Yes.

10 **Q.** It was an offer that resulted in two awards of  
11 a contract, wasn't it?

12 **A.** Mm.

13 **Q.** One was for two million gowns, purchased at £23,899,000,  
14 via David Sumner.

15 **A.** Yes.

16 **Q.** And the other was for hand sanitiser, purchased at  
17 £16,125,000 via Nick Mason?

18 **A.** Yes.

19 **Q.** And you're familiar with those two transactions?

20 **A.** Yes.

21 **Q.** SG Recruitment was introduced to you by Lord  
22 Chadlington?

23 **A.** Yes.

24 **Q.** Is that right? You knew him through your life in  
25 politics?

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1 A. Yes.

2 Q. The initial contact that was made was via text message?

3 A. Yes.

4 Q. Yeah. SG Recruitment is not Lord Chadlington's company

5 but he made the introduction?

6 A. Yes, that was my understanding. I think he might have

7 been the director of the -- a director of it as well.

8 Q. Well, we'll come on to that. I think that's right.

9 A. Yeah.

10 Q. David Sumner was the principal of SG Recruitment?

11 A. Yes.

12 Q. Did you understand what was meant by the "principal"?

13 A. I suspect -- I think I probably took that to mean that

14 he was the person running it.

15 Q. Let's have a look at INQ000510463, please.

16 David Sumner wrote to you on 21 April 2020?

17 A. Yes.

18 Q. Did you know David Sumner before this?

19 A. No. I had spoken to him, I think -- I can't remember if

20 I'd spoken to him before or after this email, but

21 briefly, yes, that was the first time I had ever spoken

22 to him.

23 Q. You said on 20 April "This sounds very interesting."

24 A. Yes.

25 Q. What was the basis upon which you thought that this

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1 him personally was relevant to assessing the offer that

2 he was making?

3 A. I think what it did was it meant that -- it was -- it

4 was -- it certainly meant that it was worth, I thought

5 it was worth -- the combination of all the things that

6 I've set out meant that I thought that he was definitely

7 someone that Chris Hall should take a look at.

8 Q. In your statement you offer no further details about

9 SG Recruitment and you tell us that you no longer have

10 access to the laptop and email address that you were

11 using at the time, because you returned those to DHSC in

12 May 2020.

13 A. Mm.

14 Q. The Inquiry, though, has obtained further correspondence

15 which you have seen, I believe?

16 A. Yes, I've seen.

17 Q. And, of course, we also have Lord Chadlington's

18 statement. Could we turn up his statement at

19 INQ000530462, paragraph 6. We learn there that he was

20 a non-executive director, a non-executive chairman of

21 Sumner Group Holdings. He has told the Inquiry that he

22 understood that one of the companies in the group has

23 access to PPE.

24 Did he explain to you the nature of his connection

25 to SG Recruitment?

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1 offer was interesting?

2 A. I think by this stage I'd spoken to him, I think he'd

3 actually sent me an email just before this, on the 19th,

4 setting out what he could offer, and then I think I'd

5 spoken to him. I can't remember the exact sequence, but

6 I spoke to him -- and what was interesting about him was

7 that he was ex-military, ex-SAS, he was very -- he had

8 done a lot of business in Asia, was very, very connected

9 to factories in Asia, and had what looked like an

10 impressive team of people supporting him. So he sounded

11 like someone, you know, just from speaking to him on the

12 phone, who sounded interesting, and passed that test

13 that I set out earlier of being deeply connected in the

14 Far East. So as I say, I thought this could be

15 interesting.

16 Q. Did you form a view that he was -- what was the term you

17 used -- a "good chap"?

18 A. Yes, I mean, look, I have to admit I had a slight soft

19 spot for someone who told me they had served in the

20 military and was ex-SAS and credentialised themselves in

21 that way. So I probably did think he sounded like

22 a sort of decent guy when I spoke to him. I can

23 remember him being articulate and impressive and also,

24 you know, into the detail.

25 Q. And did you think that that assessment that you made of

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1 A. Well, he -- in the email that Sumner sent me, and in

2 the -- what I sent on to Chris Hall, I said

3 Lord Chadlington is a director. So he must have -- that

4 must have been -- I think that was in the original

5 email. So, yes.

6 Q. How did that affect the approach that you adopted to

7 this offer?

8 A. Not at all, really.

9 Q. As a non-executive director, did Lord Chadlington -- did

10 it not occur to you that Lord Chadlington held shares in

11 SGH Limited, the value of which could be dependent on

12 the success of the subsidiaries in the group?

13 A. I honestly can say at the time -- obviously I've read

14 all the materials now -- at the time, I was -- didn't

15 really, sort of -- it didn't really enter my

16 consideration.

17 Q. Now that you've had the opportunity to look back on it,

18 should it have done?

19 A. Well, not really, because it's disclosed. It's

20 transparent. Look, I think when -- the way I look at

21 this is when you're in an emergency situation, you're

22 always looking at a balance of risk. And so it's

23 a factor to be considered. It's certainly a factor

24 I would expect the transaction team to consider when it

25 gets to the next stage of assessing the offer, but

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1 I didn't think that should, on its own, preclude me  
 2 passing the offer on if I thought it was credible --  
 3 **Q.** Well, perhaps not --  
 4 **A.** As long as it's disclosed, as long as it's sort of --  
 5 **Q.** Look, Lord Feldman, you indicated a moment ago that one  
 6 of the reasons why, on occasion, you declared  
 7 a connection to a Conservative Party member, say, is to  
 8 ensure transparency?  
 9 **A.** Mm.  
 10 **Q.** Why would it not have been that upon learning that  
 11 Lord Chadlington stood to gain from a contract were it  
 12 to be awarded, you didn't make that clear on the  
 13 correspondence?  
 14 **A.** Sorry, when -- when did I learn that? Just a few weeks  
 15 ago, when I got his statement? I didn't know that at  
 16 the time.  
 17 **Q.** Let's have a look at INQ000533519.  
 18 **A.** David Sumner to me, yes.  
 19 **Q.** There it is.  
 20 "Lord Chadlington ..."  
 21 Towards the bottom --  
 22 **A.** "... sits on the board ..."  
 23 **Q.** "... currently sits on the board of SGH Global."  
 24 **A.** Yes, I know. I knew that.  
 25 **Q.** So it's not couple of weeks ago, is it? This is  
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1 impressive, and then he's credentialising himself at the  
 2 bottom, and that's what I was referring to when I said  
 3 he seemed to have good credentials.  
 4 And more than just having been formerly in the  
 5 military, but actually having relevant connections in  
 6 the Middle East -- in the Far East.  
 7 **Q.** Let's just have look at Lord Chadlington's witness  
 8 statement now.  
 9 INQ000530462, paragraph 51.  
 10 I'm afraid I don't have a page number here. There  
 11 we are, thank you.  
 12 "On 26 April 2020, I responded to an email which  
 13 Mr Sumner had sent to me stating, 'Fingers duly crossed.  
 14 [Let's] have a chat when we know where we are and what  
 15 happens next, future orders etc. I should -- after  
 16 chatting to you -- talk to DC and to Feldman ..."  
 17 Is that "[David Cameron] and to [Lord] Feldman"?  
 18 **A.** Yes.  
 19 **Q.** "... they've been batting for us on this and I want to  
 20 say thanks for support. Peter'. Mr Sumner replied,  
 21 'Most definitely. I will call as soon as payment  
 22 confirmed which I expect will be tomorrow.  
 23 [David Cameron] and [Lord Feldman] have been very  
 24 supportive', to which I responded, 'Yes. Once money is  
 25 in the bank we can discuss next steps. Have a good  
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1 April --  
 2 **A.** No --  
 3 **LADY HALLETT:** I think there may be a misunderstanding,  
 4 Mr Wald, with the question. I appreciate that appears  
 5 to be the answer to your question but I think --  
 6 **A.** No, no, what I was saying is -- this is what I was  
 7 saying to you. This is a letter of 21 April --  
 8 **MR WALD:** Yes.  
 9 **A.** -- in which he says that. And when I refer the offer  
 10 on, I say "Lord Chadlington is a director of the  
 11 company". It is on the face of that initial  
 12 correspondence.  
 13 If you look at the correspondence, I was involved in  
 14 the correspondence between 19 and 21 April. After that  
 15 it sort of goes into the machine and they start to  
 16 assess the offer. After 21 April, that's the end of my  
 17 involvement in this. I leave it. The machine then  
 18 makes its assessment.  
 19 This the first couple of days of to and fro of  
 20 emails and then it gets passed through to Chris Hall and  
 21 the team to assess. And this is sort of -- this is  
 22 the -- this is him setting out his credentials.  
 23 "Further to our telephone call yesterday ..."  
 24 Is how the email starts, and then he -- so we spoke,  
 25 I thought you sound like an interesting guy, quite  
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1 evening and speak tomorrow. Peter'."  
 2 So what support is referred to here? Were you  
 3 batting for Mr Sumner in this case?  
 4 **A.** No, not at all. First of all I can say that  
 5 David Cameron, other than giving Pete Chadlington my  
 6 mobile number, and that's sort of in the evidence,  
 7 that's it. That's the extent of his involvement. As  
 8 far as I'm concerned, the extent of my involvement is  
 9 the initial exchange between 19 and 21 April, which  
 10 you've seen, and that's it.  
 11 I think Lord Chadlington is possibly operating under  
 12 a bit of a misapprehension about what my role was. You  
 13 know, once the offer had passed into the system it was  
 14 really a matter for Chris Hall and the rest of the team  
 15 to make the assessment. That's it.  
 16 **Q.** All right.  
 17 **A.** He may have viewed me passing the offer on initially as  
 18 being very helpful, but it's not what I -- it's no  
 19 different to what I've done for anybody who I thought  
 20 had a credible offer of help.  
 21 **Q.** Lord Feldman, let's just, to complete the picture, turn  
 22 to the other aspect of the SG Recruitment contract which  
 23 was awarded. This is for hand gel.  
 24 Could we have INQ000526188 brought up, please.  
 25 And just to remind, this was for £16,125,000, which  
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1 was the purchase price. You tell us at paragraph 12 of  
2 your statement:

3 "The solicitors for the inquiry have also shared  
4 with me an email from Lord Chadlington dated 19th April  
5 ... [in which] Nick Mason, who apparently had access to  
6 PPE. I do not recall this email and I do not recall  
7 what happened as a result of this introduction."

8 Well, here we have, the following day,  
9 "Someone else ..." it's entitled:

10 "Nick's family are good friends with [someone] and  
11 with ours. He has access also to some PPE which may  
12 help in current crisis."

13 A. Yes.

14 Q. "Nick outlined to Andrew what you can provide."

15 A. Yes, he only provided me with this email after my  
16 statement. So, do you see --

17 Q. You received it in April of 2020, did you not?

18 A. Yes, but to my DHSC email account.

19 Q. Does that mean you wouldn't have seen it?

20 A. Well, I say it in my statement, I can't recall seeing  
21 it. And then -- because I don't have access to it any  
22 more. And then you've produced it for the purpose of  
23 this Inquiry, and now, you know, I can now see it, and  
24 now I can remember it.

25 Q. Let's just -- there may be a better version of it.

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1 Mr Weatherby is just there.

2 **Questions from MR WEATHERBY KC**

3 **MR WEATHERBY:** Thank you very much.

4 Lord Feldman, I ask questions on behalf of Covid  
5 Bereaved Families for Justice UK group. Just a few  
6 questions from me. You've told us and I'm not going to  
7 repeat it, that your role was triaging as a volunteer in  
8 this process.

9 A. Yes.

10 Q. So you were influencing, you would say in a positive  
11 way, the process. So your role was to filter or to  
12 promote or to help prioritise offers in what was a Civil  
13 Service procurement process. Is that right? Is that  
14 a fair way of putting it?

15 A. Yeah, I mean, I certainly think to filter and to  
16 identify interesting opportunities.

17 Q. Okay. All right.

18 Was it appropriate for a Member of the House of  
19 Lords and a leading member of the governing party to be  
20 playing such a role in a procurement process by the  
21 Civil Service?

22 A. Well, look, the view I took was that, normally speaking,  
23 it would not be a role that I would take on.

24 Q. Yes.

25 A. But in a crisis --

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1 Can we turn up INQ000510462, please.

2 Ah, it's possibly a worse version of it.

3 A. You can see that's sent to my DHSC email.

4 Q. I do see that.

5 A. Yeah.

6 Q. "Nick's family are good friends with [David's] and with  
7 ours. He has some access to some PPE ..."

8 You may have forgotten about this email until you  
9 were supplied with it a couple of weeks ago.

10 A. Yeah.

11 Q. But we can now see that towards the end of April 2020,  
12 Lord Chadlington --

13 A. Yes, it's the same day as the other one.

14 Q. The same day, points out that "Nick's family are good  
15 friends with [David's] and with ours". Why do you  
16 suppose that might have been pointed out in this email?  
17 What relevance could it have to an offer coming in?

18 A. Frankly, in my view, none whatsoever, but if the offer  
19 was interesting, you know, on its merits, then worth  
20 passing on.

21 **MR WALD:** Thank you, Lord Feldman. Those were all the  
22 questions I had for you. I know there may be questions  
23 from others.

24 **LADY HALLETT:** There are.

25 Mr Weatherby, I think you're up now.

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1 Q. Okay.

2 A. Well, it's worth just making this point. In the crisis  
3 you get a phone call from James Bethell and you have  
4 a choice. You either say, "You know what? I'm not  
5 going to help. There's too much risk associated with  
6 it, you know, it's complicated, it's not a role that has  
7 historic precedent. I'll just sit on my hands."

8 Or at that moment you say, "Well, I understand  
9 there's a risk. We'll do what we can to mitigate the  
10 risk, by giving me civil servants and a DHSC laptop, and  
11 I will try to help in any way that I can."

12 They're the choices you're faced with at that  
13 moment. So the question of appropriateness is a very  
14 valid one to ask --

15 Q. Thank you.

16 A. -- but I'm just saying you have to contextualise it  
17 about the choices that you have to make at that moment.

18 Q. Yes. So you're agreeing with me then that it muddies  
19 the waters, doesn't it, between --

20 A. I don't think so, no.

21 Q. -- between the political and the Civil --

22 A. No, because I think the other thing to say, in my  
23 experience with the Civil Service, almost invariable  
24 experience with the Civil Service, is they're perfectly  
25 capable, and every day they deal with the challenge of

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1 deciding -- you know, being faced by a political  
 2 pressure or a political judgement and then having to  
 3 make a judgement in their role as civil servants about  
 4 what they perceive to be is right for the country,  
 5 what's in the best interests of the country.  
 6 **Q.** Yes.  
 7 **A.** I think the civil servants in my experience that I dealt  
 8 with were more than capable of doing that. And in fact  
 9 their evidence consistently says that, which is that  
 10 they made judgments -- what they thought was in the best  
 11 interests of the country, in the best interests of the  
 12 procurement process. And yes, they may have found  
 13 politicians irritating, but they firmly and trenchantly  
 14 stuck to their guns in making  
 15 decisions -- (overspeaking) --  
 16 **Q.** Okay, but you at least concede that in normal times it  
 17 wouldn't be appropriate for you to do a role such as  
 18 that, given your role in the --  
 19 **A.** I think in normal times I wouldn't be asked.  
 20 **Q.** Yes. Okay, I'll move on.  
 21 You've stated that, with your discussion with  
 22 Lord Bethell, you completed a conflict of interest  
 23 form --  
 24 **A.** Mm.  
 25 **Q.** -- at the beginning of your placement. Did you ever  
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1 **A.** Um --  
 2 **Q.** I mean, here you are, putting forward offers or  
 3 promoting offers. Surely you would want to understand  
 4 conflicts or potential conflicts, or financial interests  
 5 of people who were promoting them to you to promote into  
 6 the --  
 7 **A.** Generally speaking, the people referring the businesses  
 8 pointed it out. So they made a point of saying if there  
 9 was, like in the case of Peter Chadlington, that they  
 10 were a director. In the other instances, I think  
 11 I assumed not.  
 12 **Q.** Do you think on reflection you should in each case have  
 13 made that clear with referrers --  
 14 **A.** Well, are there instances where that happened that  
 15 you're concerned about?  
 16 **Q.** Well, I'm asking --  
 17 **A.** No, no, what I am saying to you is that I'm not aware of  
 18 any, I'm not aware of any instances where I referred  
 19 people who had a financial interest. But I mean, I'm  
 20 not saying it's not possible --  
 21 **Q.** I'm looking at the process you engaged with. I'm simply  
 22 asking you whether this is something that you took care  
 23 to -- (overspeaking) --  
 24 **A.** Look, I'm hesitating in saying that I did because  
 25 whether I -- in the heat of the moment, whether I did it  
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1 give consideration to potential for conflicts of  
 2 interest in relation to the suppliers you were triaging?  
 3 Was that something that you paid attention to?  
 4 **A.** Yes, absolutely, yes.  
 5 **Q.** In particular because a lot of them were apparently  
 6 people that you knew?  
 7 **A.** As I said, some of the people introducing suppliers  
 8 I knew. The suppliers themselves, overwhelmingly,  
 9 I didn't know.  
 10 **Q.** And did you take account of whether individuals who were  
 11 referring, referrers of the companies, had financial  
 12 interests in the suppliers being promoted?  
 13 **A.** Largely --  
 14 **Q.** It's an important question, isn't it?  
 15 **A.** It is an important question. Largely, that wasn't the  
 16 case. We've just been discussing an instance where Lord  
 17 Chadlington was a director of the company --  
 18 **Q.** Yes.  
 19 **A.** -- (overspeaking) -- disclosed that. I didn't know  
 20 whether he had a financial interest or not in the  
 21 business at that time. At the moment I can't think of  
 22 any -- I may be corrected but I can't think of any  
 23 others where the referrer had a financial interest in  
 24 the company.  
 25 **Q.** Yes, but was it something you asked them?  
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1 invariably, I can't say for certain. But I certainly  
 2 think that would have been something in my mind, yes.  
 3 **Q.** And in terms of SG Recruitment finally, you've been  
 4 asked questions so I'll be brief about this, but did you  
 5 specifically ask David Sumner or Lord Chadlington to  
 6 declare conflicts of interest or, particularly with  
 7 Lord Chadlington, the fact of his financial involvement  
 8 with SG Recruitment?  
 9 **A.** I think, when he said that he was the director, I sort  
 10 of assumed that that was sufficient.  
 11 **Q.** Yes.  
 12 **A.** And you have to remember, as I said before, I was at the  
 13 tip of the spear. There was an enormous machine of  
 14 hundreds of people sitting behind me who went through  
 15 technical due diligence, financial due diligence.  
 16 **Q.** -- (overspeaking) --  
 17 **A.** Logistics and delivery. So you're putting a lot of  
 18 weight on me, and actually, as one person, acting on my  
 19 own, and perhaps I had more faith that the system that  
 20 was sitting behind me, which as I now know, had 500  
 21 people in it, would sort of address those concerns that  
 22 you're now articulating.  
 23 **Q.** Okay. Finally, in terms of SG Recruitment, you've given  
 24 your account of the fact that SG Recruitment had some  
 25 contacts in the Far East and the army connection?  
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1 **A.** Mm.  
 2 **Q.** We know from disclosure that some of the products that  
 3 were supplied by SG Recruitment were marked "Do not  
 4 supply to the NHS" at the end because they weren't fit  
 5 for purpose. This supplier was a recruitment company.  
 6 It had no relevant trading history of itself. It had  
 7 very low turnover for contracts of this magnitude prior  
 8 to the pandemic. Apart from what you said, was there  
 9 any basis for promoting SG Recruitment in the way that  
 10 you did?

11 **A.** Well, I think first of all, promoting -- you can see the  
 12 correspondence. If you view that as promoting, you  
 13 know, that's your word not mine. I think I passed them  
 14 on because I spoke to Mr Sumner and he seemed like  
 15 a credible, knowledgeable person who might be able to  
 16 help. The question of what was bought, how much of it  
 17 was bought, what was paid for it, where it came from,  
 18 how it was technically checked, how it was delivered,  
 19 these were matters which were not in my remit and which  
 20 there were teams of hundreds of people to attend to and  
 21 I believe all of them, in my experience, worked very  
 22 hard to get us to the right conclusion.

23 It is of course the case in a wartime situation,  
 24 which frankly is what this was, that mistakes will be  
 25 made. I suspect if one analyses the recruitment

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1 **A.** Mm.  
 2 **Q.** Can I ask you if you asked him certain questions? And  
 3 I think I might already know the answer to this but if  
 4 I can just ask you to clarify. Did you ask him, for  
 5 example, how long his company had been trading?  
 6 **A.** Look, I don't want to misspeak. If you imagine this is  
 7 5 years ago --  
 8 **Q.** Indeed.  
 9 **A.** I was having multiple conversations a day. I don't --  
 10 I can't actually remember my conversation other than  
 11 what's set out in the correspondence, which is he seemed  
 12 like an interesting, credible person.  
 13 I suspect that I didn't ask him how long the company  
 14 had been trading. It's possible that I did but I can't  
 15 honestly recall.  
 16 **Q.** You see, it's the -- the Inquiry has heard that in order  
 17 to triage offers, that questions were asked, for  
 18 example, how long had a company been trading, whether or  
 19 not it was trading at a profit or a loss, whether or not  
 20 it had ever traded PPE, and I wonder if I can ask you to  
 21 comment on this: it sounded like what you were triaging  
 22 was people rather than offers?

23 **A.** I think that -- well, I think certainly what I was --  
 24 and it's a very fair comment. What I was doing was  
 25 I was trying to make a rapid assessment of whether an

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1 practices of the British government at the commencement  
 2 of the Second World War, you would see all sorts of  
 3 things --

4 **Q.** I don't think we'll go to the Second World War --  
 5 **A.** No, but what I am saying to you is you're placing  
 6 a prism on this team, this hard working team of civil  
 7 servants, which is I'm afraid, you know, inevitably  
 8 we're carrying the weight of hindsight, but it's not  
 9 being very forgiving, given the situation that they were  
 10 facing.

11 **Q.** I'm just asking you questions, Lord Feldman. Thank you  
 12 very much.

13 **A.** No, I understand.

14 **LADY HALLETT:** Thank you very much. Have we agreed on the  
 15 questions, Ms Mitchell, that I've allowed you to ask?

#### Questions from DR MITCHELL KC

17 **DR MITCHELL:** I think we have, I'm obliged to counsel to the  
 18 Inquiry who asked many of my questions but I think we've  
 19 now agreed on one.

20 It follows on from the questions you've just been  
 21 answering in relation to Mr Sumner. You've explained  
 22 that you are doing a triage system, that you were  
 23 credentialising the offer, and you explained in relation  
 24 to Mr Sumner that you had a certain fondness due to the  
 25 fact of him having been in the military and an SAS man.

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1 offer was credible enough to go to the next stage, and  
 2 by which I mean whether the -- from -- what I said at  
 3 the beginning was, was there a proximity to the Chinese  
 4 market? Was it an offer which was of sufficient scale  
 5 to move the dial in a situation where the volumes needed  
 6 were enormous? And was the person knowledgeable about  
 7 the product area in a way that made it interesting?

8 The questions of whether the company had been  
 9 trading a long time, the creditworthiness of its balance  
 10 sheet, all of those aspects, were definitely not for me.  
 11 They were definitely handled by the specialist teams  
 12 further down the line. And you can see that in the  
 13 correspondence. If you look at what was done after I'd  
 14 passed it on by the professional team, they looked at  
 15 things like the balance sheet of the company and its  
 16 trading history, and, you know --

17 **Q.** Indeed, I --

18 **A.** -- and corporate structure. So my point is it was done,  
 19 but that wasn't by me.

20 **DR MITCHELL:** My Lady, no further questions. I think my  
 21 point is made.

22 **LADY HALLETT:** Thank you very much, Ms Mitchell.

23 Thank you very much, Lord Feldman. I may just  
 24 forgive you for that dreadful word "credentialise",  
 25 I can't even say it, but thank you very much for your

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1 patience in waiting so long to come on, and thank you  
 2 for your help with the Inquiry. Thank you very much  
 3 indeed.

4 Very well, 10.00 tomorrow, please.

5 **(4.31 pm)**

6 **(The hearing adjourned until 10.00 am the following day)**

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