

Witness Name: Jacqui Rock

Statement No: 1

Exhibits: JR1/01 – JR1/26

Dated: 7 February 2025

UK COVID-19 INQUIRY

MODULE 5

FIRST WITNESS STATEMENT OF JACQUI ROCK

I, **JACQUI ROCK**, will say as follows:

Section 1: Introduction

- 1.1. I make this statement in response to a Rule 9 request received from the UK COVID-19 Public Inquiry (“the Inquiry”) dated 24 September 2024 and updated on 5 November 2024 (“Rule 9 request”). This is the first witness statement I have provided to the Inquiry. I have also provided information for the corporate witness statements made on behalf of the United Kingdom Health Security Agency (“UKHSA”) for Module 5.
- 1.2. The Rule 9 request asks me a number of questions relating to the procurement structures, processes, procedures, individual decisions on contracts for COVID-19 polymerase chain reaction (“PCR”) and lateral flow devices antigen tests (“LFD”) between January 2020 and June 2022 (“Relevant Period”). This witness statement addresses my role as Chief Commercial Officer (“CCO”), at NHS Test & Trace (“NHSTT”) and latterly UKHSA, which I held between August 2020 and December 2021. My knowledge of the matters about which I have been asked in the Relevant Period are limited to my time as CCO.
- 1.3. I have read UKHSA’s Module 5 Corporate Statement on commercial matters dated 3 December 2024 (“the UKHSA Commercial Statement”), and the Module 5 Corporate Statement on science and technical matters dated 15 November 2024 (“the UKHSA Science & Technical Statement”). Other than where indicated below, I will not repeat

in detail the information contained in these statements, which address much of the background that is relevant to this module. I will, where appropriate, refer to particular sections of these two statements. I recommend that this statement is read alongside them.

- 1.4. I would like to take this opportunity to acknowledge the hurt, suffering and hardship so many suffered because of COVID-19. I express my sincere condolences to those who lost family, friends and loved ones during the pandemic.
- 1.5. I also express my gratitude to all those who worked or volunteered in the response to the pandemic, including the very many people who assisted with NHSTT's work.

Section 2: My background

- 2.1. I am a skilled commercial executive with extensive experience in Chief Procurement Officer positions. I am a Fellow of the Chartered Institute of Procurement and Supply. For the last 20 years I have held executive roles in HM Government and the financial services industry. I am an international leader in that I have worked in multi-national companies managing large teams across the globe.
- 2.2. My background is in financial services roles, including in audit and compliance. In February 2011, I was appointed as International Chief Procurement Officer of Bank of America Merrill Lynch. I had previously worked in corporate services at the same bank. I was responsible for delivering strategic and tactical sourcing of goods, works and services with a spend of \$22bn. I had executive management responsibility for teams of over 2,500 people globally.
- 2.3. I was then appointed as Executive Commercial Director at the UK Ministry of Defence ("MoD") between December 2017 and August 2020. In that role I was employed on Government Commercial Function ("GCF") terms and was salaried through the Cabinet Office.
- 2.4. In the MoD role, I held commercial and supply chain responsibility for the UK military estate and infrastructure in Britain and overseas, with an annual procurement spend valued at £4bn. I was tasked with the delivery of the Defence Estate Optimisation Portfolio, with the intent of investing in key defence sites to reduce the MoD's built

estate by 33%. I had direct accountability to the Secretary of State for Defence, the Permanent Secretary, the Head of the Civil Service and Members of Parliament.

- 2.5. I was appointed as CCO of NHSTT on 10 August 2020. I describe the process of my appointment in further detail below. I became CCO of UKHSA when NHSTT was subsumed by that agency.
- 2.6. I left UKHSA in December 2021, when I was appointed the CCO at NHS England (“NHSE”), with responsibility for delivering a £35bn NHS procurement spend and overseeing the NHS Estates and infrastructure portfolio. I ran the UK’s largest and most valuable property portfolio, with management of the UK largest supplier base ranging from world leading technology businesses to Small and Medium Enterprises. I left NHSE at the end of December 2024 to take up a new role internationally.
- 2.7. A Chief Procurement Officer or Chief Commercial Officer’s role is an enabling one. The important job of a Chief Commercial Officer is to facilitate the identification, procurement, and maintenance of contracts that meet the objectives set, in the private sector, by the business, and in the public sector by the departments policies.
- 2.8. I came to the role of CCO with a breadth of experience in public and private sector commercial work and managing commercial work in the context of complicated global structures and sensitivities.

Section 3: My appointment and role as CCO of NHSTT Commercial

My appointment

- 3.1. In this section, I explain the background to my appointment and my role as CCO. As I mention above, the role of commercial in NHSTT, and later UKHSA, was to enable testing policies set by the UK Government rather than develop them.
- 3.2. I also set out my reflections on the initial structures, processes and procedures in NHSTT when I was appointed. I shall explain how those processes improved over time in later sections of this statement.

- 3.3. From March 2020, the Prime Minister “called out” for civil servants across the breadth of Government to step up and offer assistance to the UK’s crisis response to the COVID-19 crisis. Whilst the government was seeking individuals with a variety of skills and experience to fulfil the various emergency roles, there was a particular demand for experienced commercial people as the UK (and the rest of the world) developed and procured in the areas of testing, vaccinations, ventilators and personal protective equipment (“PPE”).
- 3.4. The Government was keen to develop testing and tracing capabilities to better understand the spread of COVID-19 infection across the UK. I came forward to offer my skills and expertise in Spring 2020, and I was asked to support the delivery of testing and tracing through NHSTT. I engaged in initial conversations with Gareth Rhys Williams (Government Chief Commercial Officer) throughout June 2020. I was aware that NHSTT was a new team set up in May 2020. It was due to be responsible for the operation of COVID-19 testing and tracing services, including procurement. It was planned that NHSTT would be a critical part of the country’s response to combatting COVID-19.
- 3.5. I was appointed as CCO of NHSTT on 10 August 2020, with an initial expected term of 10 months. My permanent role remained as a Commercial Director at the MoD, and I continued to be employed on those terms and salaried by the Cabinet Office.
- 3.6. I was a Member of the Cabinet Office appointed executive team delivering COVID-19 Test & Trace services across the UK with direct accountability to the Prime Minister, and the Secretary of State for Health and Social Care.
- 3.7. The executive structure of NHSTT when I became CCO is set out in an NHSTT organisation chart from September 2020 (**JR1/01 – INQ000383572 slides 2 – 4**). I reported to Baroness Dido Harding, Head of NHSTT and sat on its Executive Committee (“ExCo”).
- 3.8. My role as CCO was to oversee the development of NHSTT Commercial and be accountable for the whole commercial cycle with various partners. It was my responsibility to act as the NHSTT Commercial lead across government and ensure relationships were maintained with Ministers to enable NHSTT to deliver on its commercial strategy. My responsibilities for the procurement process included:

- (a) Putting in place processes to deliver procurement objectives lawfully, effectively and efficiently.
- (b) Providing commercial advice on procurement and seeking legal advice where required.
- (c) Negotiations for NHSTT for the purchase of all categories of goods, services and works.
- (d) Forecasting NHSTT's likely future procurement needs based on evolving policy and testing strategy.
- (e) Communicating NHSTT's future procurement demand to the market.
- (f) Overseeing NHSTT's transparency and its pipeline reporting.

3.9. I also regularly spoke to other commercial team leaders across government as part of my role as CCO. For example, there was a Commercial Function Leadership Group consisting of various CCOs and other commercial leaders from across government departments and agencies. Monthly meetings of this group were held. I also spoke to my commercial colleagues across government, often on a daily basis concerning business as usual matters. This is something that I have been doing both prior to and after the Covid-19 pandemic.

Section 4: NHSTT Commercial and testing

Testing strategy, NHSTT and the role of commercial

4.1. The Inquiry has asked me to explain NHSTT's role in the delivery of testing strategies, including how they developed as the pandemic unfolded. Section 4 of the UKHSA Commercial Statement sets this out in detail, as well as the procurement activities undertaken by NHSTT in response. I have been advised that the Inquiry shall be examining test, trace and isolate strategies beyond PCR and LFD tests in Module 7. As such, I do not comment on those matters further in this witness statement.

- 4.2. Testing strategy is a broad term. It could refer to high-level goals, such as how many tests to carry out per day nationally, to how tests are distributed when meeting those high-level goals. Decisions on testing strategy were taken at different levels of government. However, I did not see NHSTT Commercial as having a role in the writing of testing strategies themselves. The role of NHSTT Commercial was both to advise and enable: to advise on the commercial viability of proposed strategies as NHSTT's Commercial conscience; and to enable, where possible, the government to pursue its desired policy by procuring the goods, services and works necessary. NHSTT Commercial was there to provide sound commercial advice on what was available in the market and to procure the goods, works and services necessary to enable those strategic goals.

Testing policy objectives from central government

- 4.3. I have read and agree with paragraphs 4.3 to 4.15, 4.67 to 4.81, 4.108 to 4.117, 4.129 to 4.153 and 4.191 to 4.205 of the UKHSA Commercial Statement concerning government testing policy and its development.
- 4.4. From the outset as CCO, my impression was that No. 10 and the Prime Minister personally saw testing as a critically important part of the government crisis response to the pandemic. They saw large scale testing of the population as a way of allowing society and the economy to get back to a degree of normality whilst a vaccine was developed. There was significant pressure on NHSTT to test more people, more quickly.
- 4.5. I have been asked by the Inquiry to describe my role in relation to Operation Moonshot. I understood Operation Moonshot to be one part of central government's overall plan for testing from the summer of 2020. The Prime Minister wanted to explore testing the entire population on a single day in order to know the extent of the outbreak at a particular point in time. I think that this idea was taken from a similar programme in Slovakia. My recollection is that it was not an idea that was supported by those I spoke to in the medical and scientific community in the UK. Whilst Operation Moonshot was announced in September 2020, planning and preparation had started before I joined NHSTT; there was a Moonshot team in the commercial function. No. 10 also wanted NHSTT to ramp up the number of tests per day significantly. Again, I understood this policy to be aimed at avoiding further lockdowns and to prepare for the likely increase in infections in winter.

- 4.6. These two policies – Moonshot and the ramp up of daily testing – were both ambitious and challenging. From a commercial perspective, the common theme was the need to increase the testing equipment and capacity available to NHSTT.
- 4.7. NHSTT Commercial worked with other teams in NHSTT to ensure that we were aware of the current and future procurement requirements relating to testing. I would have been made aware of significant developments in testing strategy, which were discussed at ExCo. This allowed the NHSTT Commercial team to plan for the future and, where possible, engage the market for any future new procurement demands. Often, the strategic goals for testing changed quickly, particularly when new technologies such as LFD tests were developed. This was understandable and necessary in a time of crisis. NHSTT Commercial would provide commercial advice, such as whether the market could deliver the goods, services and works required by a particular testing strategy. We did not and could not write or set the strategy itself.
- 4.8. I have read and agree with paragraphs 4.154 to 4.187, 4.206 to 4.218 and 4.222 to 4.225 of the UKHSA Commercial Statement concerning the procurement response to meet the testing policy. I have also read and adopt paragraphs 3.32 to 3.37 and 5.2 to 5.51 of the UKHSA Commercial Statement concerning the range of testing products procured by NHSTT and the challenges faced in the supply chain.
- 4.9. NHSTT Commercial was responsible for buying the LFD tests and PCR testing equipment for NHSTT to use and distribute, but its procurement responsibilities went beyond that. It was the team within NHSTT responsible for buying the goods, works and services needed by NHSTT to deliver its objectives. In summary, this meant exploring for purchase, amongst other things, high volumes of newly developed medical devices that were being produced around the world, with unbridled demand from public and private bodies internationally. It was a very challenging environment for procurement.
- 4.10. An important commercial goal was to source an affordable at-home test that was sufficiently reliable. At-home testing was crucial to the policy of mass testing because it avoided the logistical and economic challenges of increasing PCR testing capacity. It would also allow people to check whether they had COVID-19 before going to work or to a social event. By August 2020, there were a number of such technologies in development, but none was validated. It was clear that there would be fierce

competition for any such tests once validated, both from foreign governments and private companies who wanted to bring employees into the office safely. The priority for NHSTT Commercial was clear: obtain as many tests as possible that could be taken at home as quickly as possible. I set out later in this statement how we achieved that.

- 4.11. During the pandemic, the government explored ways to increase the manufacturing and production of necessary components for testing within the UK with a strategic commitment to support UK LFD scale-up creating alternatives to overseas supply (which became known as the UK Make Programme (“UK Make”)). I did not have any role in policy formation for UK Make. NHSTT Commercial would deal with any UK company that sought to manufacture the relevant components. Working with suppliers to build a UK manufacturing capability was a strategic aim of NHSTT.
- 4.12. The distribution of tests was another important matter. NHSTT Commercial procured logistical and distribution services for NHSTT to deliver testing. However, I was not involved in writing the strategy for how tests should be distributed to sections of the public or at large. I have read paragraphs 5.2 to 5.38 of the UKHSA Commercial Statement, which is correct to the best of my knowledge.

Section 5: the structure and processes of NHSTT Commercial

The initial structures, systems and processes

- 5.1. I have been asked to reflect on the initial structures, systems and processes in place at NHSTT and whether they were adequate to engage in the procurement of LFD tests and PCR testing equipment. I have reflected on this carefully, and I set out my views on the three main areas that I thought could be improved when I joined NHSTT: the structure of the NHSTT Commercial Team; the contractual information available; and the approvals structure.
- 5.2. Before my appointment, the commercial team that procured testing technologies (“Testing Commercial Team”) was developed at short notice and whilst responding to the pandemic. Most departments or bodies will have a period of time to reflect on and set up structures before starting procurement/commercial work. This was not realistic

for the Testing Commercial Team, which had to procure urgently the goods and services necessary for the NHSTT programme from its inception.

- 5.3. I think the Testing Commercial Team did very well to contribute to the scaling up of testing in the extremely challenging circumstances it faced. Based on my assessment at the time, I considered that NHSTT had procured in a compliant manner. Whilst the structures in the Testing Commercial Team had allowed it to meet its goals, I did not think that they were sustainable into the future for the workforce of NHSTT Commercial in the face of increasing demand.
- 5.4. As to the three areas where improvements could be made, they were: first, the structure of the individual teams that made up the NHSTT Commercial team; second, the information available on the live contracts (being those contracts that had started and were active) and the future contract pipeline; and third, the approval processes within NHSTT Commercial. By “*future contract pipeline*”, I mean the projection of work that was required in the future based on contracts that were expiring or in need of renewal, or of any new procurement exercises that needed to be run to explore other goods, works and services.
- 5.5. I did not consider it necessary to conduct a full policy and procedure review at that stage. I didn’t think that this would be sufficiently useful to justify the time it would take, which would divert resources away from the procurement effort. As I explain below, I believe that we already had the proper legal and policy framework in place to procure compliantly and effectively.

Changes to the structure and processes

- 5.6. The structure of the Testing Commercial Team of NHSTT when I was appointed as CCO was aligned with the test and trace policy. Paragraph 4.3 of the UKHSA Commercial Statement describes the five testing “Pillars” policy that was announced by government on 2 April 2020. I agree with that summary. I thought that the structure of the NHSTT Commercial Team would benefit from changes to improve co-ordination and alignment with each of the Pillars.
- 5.7. I firmly believed that NHSTT Commercial needed to remain structured as a matrix organisation (where there were multiple layers of managerial responsibility and accountability to ensure that there was a clear structure within it made up of teams

within teams which I also refer to as teams or sub-teams). I thought that the new organisational design should be based around the lifecycle of procurement: plan; source; and manage. I also wanted to move into a “category management structure”, which is standard within the procurement industry. This meant that there would be particular sub-teams within the NHSTT Commercial Team that would be responsible for particular categories of goods, works and services (such as logistics). Those category sub-teams would work across stages of procurement, particularly sourcing and contract management. Overlaying this, I had centralised teams led by the senior leadership, which provided support across all categories, such as a team responsible for commercial planning and strategy.

- 5.8. The new operating model, which I describe in further detail below, was announced in early October 2020.
- 5.9. I also sought to improve the role of NHSTT Commercial within the broader organisational structure of NHSTT as a whole. I thought that the clarity of NHSTT Commercial’s role in delivering services could be improved across the organisation. I recognised the importance of having a commercial voice at the “top table”, which would mean better commercial outputs, and procurement processes to enable the organisation’s strategic objectives.
- 5.10. In terms of the procurement processes, I agree with the summary of the legal framework for and available guidance on public procurement in the UKHSA Commercial Statement at paragraphs 4.29 to 4.33. The Public Contracts Regulations 2015 (“The 2015 Regulations”) were central to NHSTT Commercial’s processes to award contracts, as they are in any government department. There is a wealth of guidance within central government on how to run a procurement exercise. NHSTT Commercial was made up of experienced and extremely competent civil servants and consultants who had expertise in public procurement. There were Senior Civil Servants, Grade 6s and Grade 7s who were accredited through the GCO Accreditation and Development Centre. I refer to and adopt paragraphs 4.17 to 4.19 of the UKHSA Commercial Statement. I was confident that they understood the 2015 Regulations and the relevant guidance which they would have worked with before in other public bodies.
- 5.11. I shall now explain the various teams responsible for the procurement of tests within the structure for NHSTT Commercial that I implemented in October 2020.

Senior management team

- 5.12. The structure of my senior management team is set out in the NHSTT Commercial organisation charts. The organograms for the NHSTT Commercial Team developed as time went on. I refer to exhibits at paragraph 3.27 of the UKHSA Commercial Statement.
- 5.13. What I call my core senior leadership team were the leaders of the different stages of the procurement lifecycle. In October 2020, this consisted of the leaders of Pre-Sourcing and Strategy; the sourcing of common goods and services; the sourcing of retained goods; performance, contract and supplier management; and commercial operations. Each of these teams worked across the organisation, with expertise in particular parts of the commercial lifecycle.
- 5.14. Apart from the Commercial Operations team leader, each member of my core senior leadership team were Senior Civil Servants with extensive expertise in public procurement. The Commercial Operations team leader was a consultant from PA Consulting with expertise in project and change management and operational delivery in the health sector. Commercial Operations was a back-office role and was not directly involved in procurement exercises itself.
- 5.15. NHSTT Commercial needed to use external consultants to stand up at pace the large team required to enable NHSTT to meet its objectives. The organograms referred to above set out where consultants were posted in NHSTT. I refer to paragraph 4.24 of the UKHSA Commercial Statement, with which I agree.
- 5.16. I would meet this core group of the senior leadership team every morning, where we would discuss the key issues facing the team. I would ask what issues they thought needed escalating or prioritising; where we were on ongoing projects; what contracts or competitions were likely to be required in the future; and about any other issues that were of concern. We would also discuss any new information from market engagement. This information would include a range of issues, such as new testing technologies, the level of demand in the market and any issues in the supply chain. This meeting allowed information to flow across NHSTT Commercial and to me.

- 5.17. I would meet the wider senior leadership team within NHSTT Commercial at least once a week. I would go over similar questions with them but targeted to their specific area of responsibility.

Pre-Sourcing & Strategy Team

The team in outline

- 5.18. As already set out, the Pre-Sourcing and Strategy Team was led by a Senior Civil Servant. I believe this team changed its name to “Strategy and Market Engagement” at some point. This team was a centralised function within NHSTT Commercial, and it worked across all categories.
- 5.19. One of this team’s key roles was market development and engagement. It would initiate and maintain early engagement with suppliers of goods and services across all of the categories. This would provide intelligence on new technologies on the horizon, the state of the supply chain and its resilience and the relative capability and capacity of existing and potential suppliers. It would develop and assess the viability of new routes to market. The team would also signal NHSTT’s anticipated future requirements to the market.

Identification of PCR/LFD suppliers

- 5.20. I have been asked how NHSTT Commercial identified potential suppliers of LFD and PCR testing equipment. I understand that from the outbreak of the pandemic, vast numbers of companies contacted DHSC offering to provide supplies or services for the pandemic response on a commercial basis. This continued for NHSTT when it was established and throughout my time as CCO.
- 5.21. A new process was put in place for managing supply offers shortly after I became CCO. The New Supplier Mapping (“NSM”) team was responsible for triaging offers from external parties and for proactively sourcing new suppliers. The NSM team did not form part of NHSTT Commercial when established. It later came within the responsibility of NHSTT Commercial. I understand, but cannot recollect, that this transfer happened in January 2021.

- 5.22. I have reviewed UKHSA's 2022 review, referred to in the UKHSA Commercial Statement at paragraphs 4.187 to 4.190. I do not have anything to add to its findings. To whatever extent terms like "VIP" were used to identify potential suppliers, that was misguided loose-language. I am satisfied that it had no impact on the actual procurement processes delivered by NHSTT.

Market engagement

- 5.23. The Pre-Sourcing and Strategy Team was also responsible for market engagement. I have been asked to provide a list of the businesses that I directly engaged with as part of the NHSTT programme. I am unable to answer this question because I spoke to many actual or potential suppliers during the pandemic. I did not have written criteria for when I would speak with suppliers directly. I would generally speak to suppliers when a matter needed to be resolved and could be unlocked by experience and seniority.

Contract, Performance and Supplier Management

- 5.24. Before I discuss how contract management was handled by NHSTT Commercial, I will clarify what I mean by contract management. The management of contracts is a broad term, and responsibility for it falls across different departments of any business.
- 5.25. Generally, commercial teams are responsible for certain parts of contract and supplier management, but not others. A commercial team will typically be responsible for managing the information relevant to contracts, such as when agreements will expire or arranging payments to suppliers.
- 5.26. Any goods and services procured by NHSTT Commercial were used by other business partners. Equally, monitoring whether the supplier was performing its obligations under the contract satisfactorily or whether the contract was being fully utilised was the responsibility of the part of the business using the agreement. It is best practice and government policy to have robust processes for contract management and performance in place. This took a while to develop in NHSTT Commercial because it wasn't considered a top priority at the time. The priority was procuring equipment and services for testing. Over time, we were able to shift focus to implementing best practice contract management.

Customer Relationship Management Team

- 5.27. The Customer Relationship Management team (“CRM”) also reported into the Pre-Sourcing and Strategy team leader. CRM was NHSTT Commercial’s main point of contact with other teams in NHSTT for whom we were procuring goods, works and services.

Category management teams

- 5.28. There was a team for sourcing and delivery, which assisted all of the category teams with end-to-end procurement. I discuss the category teams relevant to testing below.
- 5.29. The Lab Capacity team was responsible for the procurement of goods, works and services necessary to operate the laboratories which analysed PCR tests. This included the procurement of lab space to the technicians working within them. This was the largest of the delivery and sourcing teams.
- 5.30. The Consumables and Reagents team were responsible for procuring the essential materials and supplies (such as swabs) to maintain operations necessary for NHSTT to deliver the testing programme. It was also responsible for procuring services such as sample collection.
- 5.31. The Logistics Team was led by a Category Director. Broadly, the Logistics Team oversaw the procurement of a wide range of goods, works and services including packaging, testing kit assembly, warehousing, shipping and distribution implementing end-to-end logistic solutions to support NHSTT operations.
- 5.32. The Infrastructure and Corporate Team was responsible for procuring goods, works and services necessary to operate NHSTT’s physical sites, including test sites.
- 5.33. It was important for NHSTT to have access to the latest reliable testing technology. The New Testing Technology and Innovation team focused on procuring goods, works and services in this important area to increase the UK’s testing capability. The team was headed by a Senior Civil Servant Category Manager.

5.34. As I described above, NHSTT used professional services firms to deliver the test, trace and isolate programme. Teams within NHSTT would be responsible for deciding whether a business need of the team could be met by recruitment, internal transfer or secondment from another department. NHSTT Commercial were not involved in HR processes such as recruitment or secondment for other teams. When NHSTT decided to recruit or instruct a third-party contractor to meet a business need, the Professional Services Team of NHSTT Commercial was responsible for the execution and management of the procurement process. Although entering contracts for private sector consultants to carry out the commercial work also involved the preparation of business justification templates and business cases and an approvals process, the procurement of professional services differed from the procurement of testing technologies. I understand the Inquiry in Module 5 are focussed on the latter. A separate procedure was adopted for the procurement of professional services, including a separate approvals board from September 2020 as detailed at paragraph 6.51 below to meet the need to work at pace.

Commercial Operations Team

5.35. The Commercial Operations Team was a centralised function that worked across all three framework areas described above. It was a back-office team that assisted with project and change management and operational delivery.

The creation of UKHSA

5.36. There was a further significant change in the structure of the commercial team as part of NHSTT and Public Health England's ("PHE") commercial teams merging in the creation of UKHSA. I refer to paragraph 3.5 of the UKHSA Commercial Statement.

Section 6: The Procurement Process

Introduction

6.1. In this section, I describe the procurement process followed by NHSTT Commercial. These processes were not novel or created by me. We followed recognised and standard best practice as used across government.

- 6.2. Following my appointment as CCO, NHSTT Commercial ran several workshops to record the processes that the team was using in a single document. This became known as the T&T End-to-End Commercial Process and Tool Kit. I refer to paragraph 4.177 of the UKHSA Commercial Statement. The toolkit was not about changing practice, but explaining the commercial process in one document. This was the overarching process followed by NHSTT Commercial whilst I was CCO.
- 6.3. The procurement process is split into several stages of a lifecycle. In summary, the keys steps were:
- (a) A planning phase. It is important for the business to be able to anticipate what lies in the near, medium and long term future. This is often referred to as the contract pipeline. A procurement body needs to have contractual information to hand to build a contract pipeline.
 - (b) A commercial strategy phase. This requires careful thought and approval at an early stage. This involves identifying the business needs and determining the best way to achieve those. This will include considering the route to market.
 - (c) Sourcing the goods and agreeing terms in principle with a supplier, depending on the route to market.
 - (d) Obtaining full business case approval and awarding the contract.
 - (e) Carrying out supplier and contract management, as described above.

Planning: the contract pipeline

The contract pipeline on my appointment as CCO

- 6.4. On arrival at NHSTT, I saw it a top priority of mine to assess the contract pipeline. I requested information on all of the live contracts that NHSTT Commercial had procured, as well as information on the likely procurement exercises required in future. I considered that further review and analysis of the contractual information was required. I oversaw a comprehensive review of the contractual position.

- 6.5. The review identified several areas for improvement (JR1/02 – INQ000563535). There were structural issues to address, including reforming what information was stored and how. There was also a significant issue of information relating to contracts not being centrally stored. This included material matters such as the contract end date. The fact that there was missing information was completely understandable given the fast and unfolding situation NHSTT found itself in at that time in the government's response to the pandemic. It was important to improve the contract pipeline with a more detailed review.
- 6.6. This further review involved multiple workshops where the relevant contracts were analysed line by line to understand the commercial arrangements and exposure. The review considered data across 12 datasets for each contract placed by NHSTT. It then analysed that data to develop two contract pipelines. The Historic Awarded Contracts pipeline, which summarised the position of contracts placed to date. The Forward Contracts Pipeline, which summarised the contracts that would need to be awarded in the future. The forward pipeline would enable NHSTT Commercial to develop a procurement plan, setting out the strategy for the approaches to procurement over the next 18 months. This would inform our commercial strategy to extensions, competitions, terminations, as well as routes to markets and ensuring value for money across all procurement activities.
- 6.7. Alongside seeking to rationalise our data, I pushed for it to be transferred from Excel spreadsheets to ATAMIS, which is specific procurement software operated by DHSC. ATAMIS operated across the whole commercial lifecycle. It included a supplier portal to enable suppliers to respond to competitions, correspond with buyers and manage contracts. Supplier engagement in competitions was managed through the eSourcing part of the system allowing sourcing leads to be centrally co-ordinated and the creation of contract pipelines. We started using ATAMIS on 14 September 2021.
- 6.8. The process of reviewing and completing the information took several months. It was time consuming work to organise the information, but it was necessary. The upload of data to ATAMIS was handled by those in IT with the appropriate expertise. I did not actively oversee the detail of that process.

Improvements to the collection of information

- 6.9. Upon my appointment as CCO, I sought to improve the collection of information on contracts. We later aimed for a 95% completion rate across the various categories and information types (including for previously awarded contracts). For the reasons I set out, we encountered difficulties in achieving this target, but we made substantial improvements over time.
- 6.10. On 15 September 2020, NHSTT Commercial established the Commercial Systems and Data Steering Board (**JR1/03 – INQ000561667**). This was renamed as the Commercial Data & Analytics Steering Board in December 2020 (**JR1/04 – INQ000534284 and JR1/05 – INQ000534283**). I refer to this board collectively as the CDA Steering Board. The CDA Steering Board was responsible for monitoring the completeness and integrity of the data and was a forum in which to analyse it. The Commercial Data & Reporting Team, which was led by a Senior Civil Servant and sat within the Commercial Operations Team, prepared and analysed the data for review at the CDA Steering Board.
- 6.11. The CDA Steering Board was co-chaired by the Commercial Operations Director and the Commercial Data & Reporting Team Lead, whose roles I describe below. The CDA Steering Board was a weekly meeting with a standing agenda. A document pack would be supplied prior to the meeting. The issues that the CDA Steering Board regularly covered included:
- (a) A review of the contracts that NHSTT Commercial awarded. This would include an analysis of the types of contracts awarded and the trends in the route to market adopted, such as the use of Regulation 32 of the 2015 Regulations to make direct awards (I explain the use of Regulation 32 in greater detail at paragraphs 6.27 to 6.32 below).
 - (b) A review of the future contract pipeline. This included analysis of the expected contracts that would need to be awarded in the future, along with the expected route to market.
 - (c) A review of data integrity. This was an analysis of the extent to which the appropriate information had been recorded by NHSTT Commercial in relation to each contract awarded.

- (d) A review of NHSTT Commercial's transparency and reporting compliance. This looked at NHSTT Commercial's compliance in publishing contract awards on Contract Finder or the Official Journal of the European Union.
- 6.12. There was a push across the whole business to capture missing information. Each leader of the category teams had responsibility for collating a set of accurate data on all current and future activities for NHSTT Commercial that was in the pipeline. This was a defined set of data fields that included important things like the value of the contract and the route to market. This data was collated and would be fed into the CDA Steering Board analysis and pipeline. We had data surgeries to emphasise the importance of compiling this information.
- 6.13. I had committed to Cabinet Office and Her Majesty's Treasury ("HMT") that NHSTT would improve overall data integrity before Christmas 2020. I used the contractual information to report progress up to the Cabinet Office through Lord Bethell, Parliamentary Under Secretary of State for Innovation (Lords). We set a target of having 90% completion initially. I cannot remember precisely when we set that target, but it would likely have been some time after the reviews I described at paragraphs 6.4 to 6.6 above.
- 6.14. Unfortunately, we encountered difficulties in meeting this target because we had to prioritise the resources in NHSTT Commercial to work on current procurement exercises. By December 2020, there were still gaps in the contractual information across the category teams, which needed improvement (**JR1/06 – INQ000534281 and JR1/07 – INQ000534282**). Slide 2 of the presentation attached to the exhibited email set out percentages for data completion for each category (the rows) and relevant field (the columns). I have been asked by the Inquiry what percentage of data was found to be missing when the 90% target was initially set. I cannot now recall that information. However, I agree with the exhibited email that significant strides had been taken by 1 December 2020 to collect the outstanding data following the target being agreed to.
- 6.15. Following the December 2020 email that I discuss in the paragraph above, we implemented a plan (a data sprint) to improve the position by appointing a person within each category team to act as a lead on data integrity. They would have to meet checkpoints each week to address the gaps within their team's records. The data

sprint was successful in improving the completeness of contractual information within two weeks. We were still under the overall target of 95% in some key fields, in particular the procurement route (JR1/08 – INQ000563536). I continued to monitor the completeness of contractual information through the CDA Steering Board.

- 6.16. One point to note is that when we had collated more information on the route to market of previously awarded contracts, the proportion of those directly awarded reduced. This was because the majority of contracts without recorded information on the route to market tended not to be direct awards. My impression was that NHSTT maintained good oversight of the use of Regulation 32 throughout my time as CCO.

Sourcing: routes to market

- 6.17. Procurement by public bodies in the UK, such as government departments and their agencies, NHS organisations and local authorities are subject to the regime set out in the 2015 Regulations. The 2015 Regulations seek to ensure that in procuring goods, services and works, public bodies adhere to fair and reasonable timetables and procedures and encourage open competition. They also require public bodies to document their procurement decisions and actions fully and to ensure that risks such as conflicts are managed. Reforms to the procurement regime have been introduced through the Procurement Act 2023 which will take effect in February 2025.
- 6.18. Within central government, the 2015 Regulations are supplemented by guidance and policies from various sources. I refer to paragraph 4.33 of the UKHSA Commercial Statement which sets out the guidance and policies that were applicable throughout the relevant period.
- 6.19. As far as I am aware, all contracts for tests and testing services prior to my arrival at NHSTT in August 2020 were compliant with the Regulations. The 2015 Regulations provided a number of routes to market for a buyer. Usually, the most cost-effective way is to make a contract award under a pre-existing framework agreement, which has been negotiated according to a competitive tender. Where there isn't a framework agreement for a particular good – which was the case for LFD tests and PCR testing equipment until the Dynamic Purchasing System (“DPS”) was introduced - there are various routes a buyer can adopt when running a new competition: open; restricted; competitive dialogue; competitive with negotiation; and an innovation partnership.

- 6.20. As I have already mentioned, the 2015 Regulations also provided the ability to make a direct award of a contract to a supplier without prior publication or competition in limited circumstances (Regulation 32). In my experience, the use of direct awards was relatively rare in public procurement before the pandemic. As I will explain, issues in the supply chain, the imbalance of supply and demand for new technology and the need to supply large numbers of tests in a short period made the use of the direct award procedure necessary and appropriate.

Framework agreements and DPS

- 6.21. NHSTT could utilise pre-existing framework agreements to procure goods, works and services it relied on. A framework agreement is an agreement between one or more buyers and sellers which set out the terms on which goods, works or services can be bought. Using a framework agreement means that the buyer doesn't have to run an entirely new procurement exercise. Some framework agreements allow buyers to purchase from sellers without any further competition, whilst others require a competitive process between the suppliers who signed up to the agreement.
- 6.22. NHSTT could rely on the Crown Commercial Service ("CCS") to obtain common goods & services. For what I called "retained categories", NHSTT could still rely on existing framework agreements operated by DHSC or other partner bodies. Retained categories means the non-common goods and sources that NHSTT needed, such as LFD tests.
- 6.23. Once NHSTT had raised the need for goods or services, the relevant team in NHSTT Commercial would always research whether there was an existing framework agreement in place that could be utilised. NHSTT Commercial maintained lists of relevant framework agreements that procurement managers could consult as a quick reference (**JR1/09 –INQ000561668 Annex C**). The procurement professionals within NHSTT were experienced and more than capable of finding an appropriate framework agreement.
- 6.24. If there was a potential agreement, NHSTT Commercial would liaise with the owner of the framework agreement – be it CCS or DHSC – to determine if there was sufficient capacity within the framework to meet NHSTT's demand. Once a framework agreement with capacity had been identified, NHSTT Commercial would then work

to develop the requirements and determine the best route to market under the framework agreement.

- 6.25. I recall that some of the most crucial goods, works and services that NHSTT required – such as LFD tests – would not be available on pre-existing framework agreements. Even where there were relevant framework agreements, some were subject to capacity limits that could not be breached by the large single purchases NHSTT proposed to make. NHSTT Commercial therefore needed to run procurement exercises outside of existing frameworks to meet demands of the testing policy.
- 6.26. The purchase of LFD tests was eventually handled through a DPS established by NHSTT in March 2021. A DPS is similar to a framework agreement however new suppliers can join at any time and it is to be run as a completely electronic process. A DPS provides an evolving platform to enable suppliers in the market to offer their solution that meets the government's requirements and availability. I have read and agree with paragraphs 3.28 and 4.41 to 4.45 of the UKHSA Commercial Statement regarding the DPS.

Direct awards

- 6.27. Prior to my arrival as CCO, NHSTT understandably made extensive use of direct awards to procure many goods, works and services to implement the testing policy. I do not say this as a criticism. NHSTT were trying to procure some goods that had no relevant framework agreements and no established market for competition. There was also significant demand for all goods relating to testing.
- 6.28. It was a priority of mine to reduce the use of direct awards in NHSTT Commercial where possible. As the pandemic and market evolved over time, this would help get better value for money for the taxpayer. I have already discussed the structural changes I implemented to the team. This was an important step to reducing the use of Regulation 32. NHSTT Commercial would be better placed to run competitions in the future, despite the challenging context, once the work processes and leadership reporting lines were streamlined. This would then be considered by the relevant approval boards (discussed below).
- 6.29. I should emphasise, and it is important to understand, that my priority was to reduce rather than eliminate the use of direct awards. Regulation 32 is particularly useful in

unique circumstances and specialised areas such as public health, where there may be limited suppliers of highly sought after and technical products. NHSTT had focussed efforts on developing alternative routes to market by starting multiple competitions. Developing these channels took time and there was still a need to make direct awards for urgent procurements while other routes to market were set up. This was in response to the rapidly changing nature of the pandemic and the strategic response to it. The country was frequently in a state of crisis with second waves and further national lockdowns, changing scientific and economic context, technological developments at extraordinary rates and a market defined by demand outstripping supply. These were circumstances in which urgent procurements were required to be able to deploy testing kits quickly and widely to reduce the spread of the virus and the social and economic impact of restrictions.

- 6.30. The need for direct awards did not just arise from the government's increasing demands for tests. It was caused by the state of the market itself. Early on, even if I had wanted to run a competitive tender exercise, it would not have been feasible because the goods and services market for COVID-19 testing had not matured enough to allow for competition. It was also necessary to be agile. As I set out above, in August and early September 2020, NHSTT was under significant pressure to prepare for mass population testing on one day (Operation Moonshot) and to ramp up the daily testing capacity for over winter. LFD tests were the only commercially feasible way to do this. The global demand for LFD tests was high. It was only going to increase when the WHO validated their use. There were only a few suppliers selling their products in the context of unbridled demand. Competition, even if accelerated, takes time in order to comply with the relevant public notice requirements and evaluations. They require suppliers to spend time and resources in tendering. I considered it necessary and appropriate to rely on Regulation 32 in many cases in order to achieve the government's testing goals.
- 6.31. The use of direct awards did reduce. NHSTT still used direct awards for some of the largest spends, such as for LFD tests. This was a necessary and appropriate use of Regulation 32 because those contracts tended to be for large, emergency purchases of testing devices.
- 6.32. It is also important to emphasise that a direct award did not mean a loss of value for money. NHSTT Commercial would make a direct award where it considered that the contract represented value for money and it was not realistic to award it via another

procedure. The contracts were then negotiated using the terms of the PHE Microbiology Framework as a base, where any amendments would need to be approved by legal.

Competitions

- 6.33. NHSTT Commercial primarily adopted the restricted approach when running new competitions. This involved publishing formal adverts that outlined the majority of the relevant requirements for 30 days or more in both Contracts Finder (operated by government) and Tenders Direct (part of the Official Journal of the European Union). NHSTT would send Pre-Qualification Questionnaires (“PQQs”) to anyone who responded to the advertisement.
- 6.34. NHSTT Commercial would then evaluate the responses to the PQQs and issue tender documentation to qualifying suppliers. The NHSTT Commercial team would then facilitate the business partner’s evaluation of the bids in accordance with the set criteria. It was for the business to assess the bids, with Commercial ensuring that the process conformed to recognised best practice and complied with legislation.

Award: the governance of contractual awards

The governance processes in place on my arrival

- 6.35. On my arrival, the governance processes that were in place for the approval of testing contract awards were not complex. There was an Investment Board, which was also initially known as the Finance and Investment Board, chaired by David Williams, Second Permanent Secretary of DHSC. This was designed to review contracts with a value of over £2 million. As best as I can recollect, all testing contracts that NHSTT was dealing with upon my appointment were valued at over £2 million and so would go to the Investment Board. This board met regularly, usually weekly, or more frequently for urgent contracts.
- 6.36. DHSC was in the process of delegating more significant spending authority, including up to £150 million for commercial contracts, in my first weeks as CCO. DHSC’s new delegated authority was summarised at slide 3 of NHSTT’s Delegations & Approvals approach document (**JR1/10 – INQ000534292**). This was an important step for

NHSTT because it allowed it to be more agile in the market by having streamlined governance processes.

- 6.37. I worked with Donald Sheppard, the CFO of NHSTT, as well as members of the Cabinet Office, HMT and DHSC to agree a new governance structure. The updated system approval system was rolled out across the business in early October 2020 (**JR1/11 – INQ000383493**).

Business case approval

- 6.38. All material expenditure in NHSTT required “business case approval”. This would be completed when the procurement manager wanted to award a contract whether by calling off a framework agreement, having identified a supplier by competition or by direct award.
- 6.39. The starting point for business case approval was to complete a relevant form. We updated the template forms to ensure that those approving spend had all of the material information necessary.
- 6.40. Most expenditure for tests would be justified on a Business Justification Template (“BJT”). An HMT Green Book Business Case could be used in some cases. This was a template from HMT’s Green Book, a resource in public procurement.
- 6.41. The first version of the BJT was sent out on 7 October 2020 (**JR1/11 – INQ000383493 and JR1/12 – INQ000383498**). In summary, the person seeking approval would have to provide information and analysis on the following matters:
- (a) The purpose and context of the request. This would explain both the reason(s) for why the spend was needed, but also any relevant intelligence acquired by NHSTT Commercial’s market engagement. For example, it would usually contain information on market capacity and the supply chain for the relevant goods that were sought.
 - (b) Management / feasibility. The BJT would then include analysis on why the proposed proposal would meet the purpose and the aims of the request. This would require the official to exercise commercial judgement to explain in clear terms why the business case was justified. The relevant procurement

managers and officials would explain the due diligence they had carried out to explain why NHSTT needed to procure the deliverable. It would set out a risk analysis of the proposal, including suggested mitigations.

- (c) Finance and economic case. The procurement manager will have carried out a detailed financial analysis of the proposal prior to the business case review. They had to set this out in the BJT to justify why it represented value for money. The official would have to set out what other options they had considered and why this one was the best choice.
- (d) Commercial case. This was where the official would explain the commercial justification for the proposal and why it was the most economically advantageous option. The commercial context would cover the important areas of the proposed contract, including its length.
- (e) There was a separate section on the route to market. Officials were expected to explain the route to market. It was particularly important for any proposed use of a direct award to be justified by reference to the criteria in Regulation 32. There was a separate section to be completed for direct awards, which required the official to explain why each of the grounds were satisfied. This enabled the approval boards to test the proposed use of Regulation 32 to satisfy itself that its use was justified.
- (f) The official was expected to have carried out a commercial risks assessment of the proposal. There was a separate section to summarise the top commercial risks.
- (g) The official was required to set out the details of the due diligence carried out, including any red flags that had been identified. This allowed the approval boards to test any risks associated with suppliers themselves, whether they were commercial or related to potential fraud.
- (h) There was also a separate section dealing with the contractual negotiations. The BJT had to summarise whether standard terms were being used and if there were any major changes to them. The form had to set out issues such as whether there were KPIs and how they would be reported upon and what the termination rights were. This meant that the approval board could satisfy

itself that the contractual terms provided suitable protection for the government.

- 6.42. Private sector consultants did not sign contracts for tests, BJTs prepared by them would be countersigned, and each contract would go through the approvals process I (and UKHSA's corporate witness statement) have described. Those working in the category teams and business case owners could access support via drop-in surgeries to develop business cases efficiently and address queries. I would review business case proposals as part of the approval process, which I discuss below.

The path to approval

- 6.43. There was delegated authority at all levels of NHSTT Commercial: Grade 6 up to £1 million for spending and commercial; Grade 7 up to £500,000.00; and SEO/HEOs up to £250,000.00 and £100,000.00 respectively for commercial only. I summarise below the path to approval for PCR testing and LFD tests.
- 6.44. In practice, expenditure that was over £2 million or was otherwise novel or contentious would be reviewed by a relevant approval board within NHSTT. These boards were attended by senior members of NHSTT Commercial, Finance, Operations, People and Technology, as well as representatives of other departments. The approval process was a crucial check to ensure that the suggested procurement offered value for money and that the selected route to market was justified.
- 6.45. Initially, the workflow of the NHSTT Commercial approval process was maintained by the Approvals Secretariat. This acted as a single point of entry to triage business cases and route them through the correct governance as opposed to separate Secretariats for different boards. This ensured that every business case received the right amount of attention and scrutiny ensuring value for money, confidence in delivery, stakeholder visibility and adherence to government policy.

Approval of contracts worth £0 – £2 million

- 6.46. It was expected that most business cases valued below £2 million would be approved by the appropriate officials with requisite delegated authority. Commercial approval would usually be given by the person with appropriate authority within the relevant category team. The Senior Civil Servants leading the relevant category teams had

the requisite authority to approve such business cases. Financial approval would be considered by the finance team. Professional services contracts and Digital / Technology contracts also required separate approval within each area.

- 6.47. Those approving such contracts had the support of the Professional Services, Commercial and Finance, and Digital and Technology Surgeries. These were centralised knowledge and advice hubs that were available to assist those approving contracts. Business cases could also be referred to the approval boards if considered to be novel or contentious.

The T&T Approval Board and the Investment Board

- 6.48. If a business case was valued between £2 - 25 million, or it was novel and contentious, it would be reviewed by the T&T Approval Board. The T&T Approval Board had established terms of reference (**JR1/13 – INQ000383495 slide 21**). External representatives from HMT and, where appropriate, the Cabinet Office attended. The T&T Approval Board would also provide oversight of the approval of business cases worth less than £2 million. Summaries of such approved business cases would be submitted and reviewed at each T&T Approval Board Meeting.
- 6.49. The updated Investment Board reviewed the most significant business cases, including those valued between £25 and £150 million and those referred to it by the T&T Approval Board. It had established terms of reference (**JR1/13 – INQ000383495 slide 20**). It was co-chaired by the Finance Director of DHSC and the CFO of NHSTT. I sat on the Investment Board. It was attended by external stakeholders, such as representatives from the Cabinet Office and HMT. Its purpose was to ensure that any contracts awarded represented value for money and that all relevant government policies were followed.
- 6.50. The Investment Board also had broader oversight responsibilities, including the approval of business cases and NHSTT Commercial's spend. Similarly to the T&T Approval Board, a paper would be presented to the Investment Board summarising all business case approvals valued at under £25 million.

Accelerated Approvals Board

6.51. As set out above, NHSTT needed to utilise professional services firms to deliver the testing strategy as well as plan for winter. It was important to obtain such services quickly yet compliantly. We introduced an Accelerated Approvals Board in September 2020 to fulfil this purpose. This board met bi-weekly and was limited to considering business cases for contracts for professional services. This allowed such business cases to be scrutinised properly and efficiently. The Terms of Reference of the Board are exhibited at **(JR1/13 – INQ000383495 slide 22)** The Investment Board oversaw the decisions of the Accelerated Approvals Board.

Further updates

6.52. The governance process was kept under regular review to consider and implement improvements due to the ever changing strategic picture. For example, in August 2021, the processes were changed to improve the timelines in which business cases were submitted to the Investment Board for approval **(JR1/14 – INQ000534286)**.

Section 7: Conflicts of Interest and Fraud Prevention

7.1. Throughout my career, in both the private and public sector, I have always understood the importance of managing conflicts of interest and mitigating the risks of fraud. For me, when it comes to running public procurement with our taxpayers' money, it is critical to effectively manage actual, potential or perceived conflicts of interest.

7.2. In this section, I discuss the management of conflicts of interest and fraud prevention in relation to the procurement of LFD tests and PCR testing equipment.

My position in respect of conflicts of interest

7.3. I have been asked how I avoided actual or potential conflicts of interest when engaging with industry in my role as CCO. I discuss the systems relating to conflicts of interest further in this statement.

7.4. Avoiding conflicts of interest is central to the role of a commercial professional. I would never work on a transaction where I considered myself to have a conflict of interest.

I do this because it is the right thing to do. Procurement is about achieving the best deal available for the customer and, in the public sector, the taxpayer. It is necessary to be independent of the transaction to know that the deal is the best one available. This is at the centre of how I have always approached procurement. It is also a sensible commercial approach. Challenges to procurement decisions by unsatisfied bidders are not uncommon. An actual or potential conflict of interest would undermine a procurement exercise, wasting money and causing reputational damage. I have never sought to benefit myself or those I know personally in procuring a particular contract and never would do so.

- 7.5. At no time did I consider myself to be in a position of actual or potential conflict of interest whilst CCO of NHSTT. My background in procurement is in banking and defence. I did not arrive at NHSTT with old or any connections to certain suppliers of medical devices or goods. Whilst I had worked with several of the professional service firms used by NHSTT, I doubt there are many procurement professionals who haven't. My previous dealings with those professional services firms were not in the health or life sciences sector.
- 7.6. Equally, I did not knowingly own any shareholding in a company, partnership or otherwise that sought to supply goods to NHSTT during the pandemic. I only say knowingly because I cannot say whether any pension investment I may have owns shares in such companies, but I was not and am not aware of any such shareholdings. I did not knowingly receive any direct or indirect benefit from the award of a contract by NHSTT.

Legal Framework

- 7.7. In addition to the legal duties in the 2015 Regulations requiring contracting authorities to take appropriate measures to effectively prevent, identify and remedy conflicts of interest, Cabinet Office sets the central government guidance on managing conflicts. NHSTT also relied on DHSC's policies in relation to conflicts of interest and fraud prevention measures and since October 2021, UKHSA has published policy documents of its own. I refer to paragraphs 4.33, 4.56, 4.57, 4.61 to 4.63 and 4.177 of the UKHSA Commercial Statement which sets out a number of the relevant policies and guidance that was applicable throughout the relevant period. This includes Codes of Conduct outlining principles and expected behaviour for Ministers and civil servants, guiding principles on how to deal with and report conflicts of

interest and guidance highlighting the risk of poor practice due to procurement at speed.

- 7.8. Suppliers are also required to adopt supporting behaviours. The Supplier Code of Conduct sets out the expectation on suppliers to mitigate appropriately against any real, potential or perceived conflict of interest through their work with government in accordance with Policy Procurement Notice (PPN) 04/21 "*Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing*".
- 7.9. UKHSA Freedom to speak up policy covers whistleblowing with a view to creating an open and supportive culture of speaking out when things do not seem right including where this is suspected fraud or bribery.

Declarations of Interest

- 7.10. Paragraphs 4.61 to 4.63 of the UKHSA Commercial Statement describe the obligations on staff to complete conflict of interest declarations and to disclose any actual or potential conflicts of interest on recruitment or that arise during their employment.
- 7.11. I was not directly responsible for the onboarding of new NHSTT staff. This would be managed by HR. New NHSTT arrivals would be issued with DHSC's Conflict of Interest and Code of Business Conduct policies. These policies applied to all individuals working in NHSTT, including contractors, consultants and secondees. New staff were required to complete a Declarations of Interest form including nil returns.
- 7.12. Once staff were onboarded, NHSTT Commercial ran an induction programme for new joiners. Those new to the civil service were required to complete mandatory online learning courses through Civil Service Learning. That training included a counter fraud, bribery and corruption module.
- 7.13. All NHSTT staff involved in procurement activities were personally responsible for ensuring they were aware of the relevant conflicts policies in place. Senior civil service commercial staff were trained and accredited by the GCO, including in fraud risk mitigations. Consultants, who would have expertise in public procurement, still received induction in public sector procurement when they joined. Teams involved in

procurement were led by senior civil service commercial staff who provided additional guidance and assurance that processes were followed.

- 7.14. I cannot recall the extent of any formal record keeping arrangements in place at NHSTT for recording staff's declared conflicts. Robust practices were however introduced in 2021 and are discussed further below. I am however reassured that the risk of conflicts were mitigated against through the assurance processes in place, which I describe below.

Improvements to practices

Conflicts

- 7.15. In April 2021, during Cabinet Office commissioned exercises to gather information on the potential conflicts of interest within NHSTT's senior civil service ("SCS") and SCS equivalent workforce, it was acknowledged that there were gaps in NHSTT's understanding of staff's declared interests. Prior to formally taking over responsibility of NHSTT on 7 May 2021, Dame Jenny Harries asked for a review of every conflict of interest declaration for consistency of language and approach. The review began by reissuing all SCS and SCS equivalent staff with copies of the DHSC Conflict of Interest and Code of Business conduct policies and asking them to submit a fresh conflict of interest declaration to be registered (**JR1/15 – INQ000534285**).
- 7.16. The request for completed conflict of interest declarations was later opened to all NHSTT staff in August and September 2021 (**JR1/16 – INQ000534287**) with a view to achieving full compliance prior to UKHSA's launch in October 2021 (**JR1/17 – INQ000534288**). The conflicts register was thereafter managed by UKHSA's Resourcing Centre of Expertise Team.

Fraud

- 7.17. I refer to paragraph 4.57 of the UKHSA Commercial statement which describes an assurance assessment that was carried out in July 2021 to improve PHE's standards and practices to counter fraud risks as PHE moved through the transition period to establish UKHSA (**JR1/18 – INQ000514390**).

Governance and assurance processes

- 7.18. Under UKHSA's Commercial Policy, all commercial staff involved in procurement activities had to ensure that they were aware of the Civil Service Code of Conduct and the UKHSA Code of Conduct Policy which set out the guiding principles on how to deal with and report conflicts of interest. Declarations had to be completed for every procurement project prior to contract award and copies retained with the procurement documentation. This was mandatory for the Commercial team, project team and evaluation panel. Where a conflict of interest was declared, the Commercial team had to act to mitigate the risk. This could include asking that another evaluation panel member replace the individual who had declared a conflict of interest (**JR1/19–INQ000421922 pages 9-10**).
- 7.19. As part of the procurement process, and in addition to the policies and guidelines mentioned above, robust measures were put in place to ensure that any conflicts of interest were identified and appropriate measures were taken to mitigate against fraud. This included the following:
- (a) Undertaking validation and due diligence over potential suppliers to minimise the risk of fraud. This included such things as obtaining information from perspective suppliers to evaluate an offered testing product and/or service before progressing the offer, economic and financial assessments over potential suppliers and on-going assessments, credit reports on a potential supplier's financials, due diligence and supplier evaluation carried out as part of a framework agreement as well as on-going supplier management and monitoring as part of such frameworks, technical evaluations over products or due diligence visits to a manufacturing factory or lab (which occurred with respect to Innova where a due diligence site visit to a factory in China was carried out). A Competition Finance Team was also in place within the Test & Trace Finance team which focused on establishing a structured commercial finance function and procured the external services of Company Watch, a credit risk scoring service based on financial accounts, to bolster supplier due diligence processes.
 - (b) Suppliers were required to complete a conflict of interest declaration as part of their supplier registration (**JR1/20 – INQ000534291**).

- (c) Discussions also took place with potential suppliers in relation to any potential conflicts of interest prior to entering into any new contracts. The completion of conflict of interest forms was required as part of the risks and mitigation strategy (**JR1/21 – INQ000421923 paragraph 5.7**). As part of the commercial governance of supplier management, DHSC conflict of interest forms and confidentiality agreements were also required and included as part of the Commercial Governance Tool kit.
- (d) Confidentiality and conflict of interest declarations were required to be signed by staff on a procurement exercise (**JR1/22 – INQ000534293 and JR1/23 – INQ000514409**). Many professional procurement specialists are members of the Chartered Institute of Purchasing and Supply (“CIPS”), as am I, and are bound by the CIPS Code of Conduct and Code of Ethics to ensure that there are no conflicts of interest, that they are committed to eradicating unethical business practices including bribery, fraud and corruption and that they practice due diligence in all business undertakings.
- (e) Completion of a BJT, which included details of any declarations of interest, supplier due diligence and any areas of risk (see for example (**JR1/24 – INQ000534289**)).
- (f) An approvals process was in place (as set out above) whereby business cases were submitted and considered by approval boards within NHSTT. This process also provided for business cases to be escalated where additional scrutiny was required because they were novel or contentious.
- (g) In relation to the decision-making process, proactive steps were required to identify conflicts of interest upfront and action taken to remove anyone with a conflict of interest from the decision-making process (**JR1/25 – INQ000534290 page 10**).
- (h) All staff with the authority to sign contracts were required to sign a Commercial Delegation Letter to ensure accordance with DHSC financial and commercial controls and policies. The letters clearly stated that the

delegation must not be exercised in respect of any project where there is a potential conflict of interest (**JR1/26 – INQ000527696**).

- (i) All contracts included provisions in respect of conflicts of interest and the prevention of fraud and allowed for termination by NHSTT in the event of an actual or potential conflict arising or fraud being committed.

Summary

- 7.20. I had a competent and professional team who were aware of their duties in respect of public procurement and conflicts of interest. I am confident that if they thought that their involvement in a procurement project raised a potential conflict they would declare it and remove themselves from the decision making process, or alternatively it would be escalated for a decision as to whether any risk could be adequately mitigated.
- 7.21. Whilst companies were keen to do what they could to assist the country in a crisis, there were inevitably those who saw the pandemic as an opportunity to capitalise and others who came forward offering to supply goods that they simply could not deliver.
- 7.22. The speed at which we were required to procure tests, the fact that the whole world was trying to buy the same thing and that we were buying new products that hadn't been procured before, naturally meant that the risk regarding fraud was more prominent. We had frameworks in place to try to mitigate that risk, including due diligence.
- 7.23. To the best of my knowledge, I am not aware of any previous or ongoing UK-based criminal investigations of fraud in respect of PCR or LFD testing contracts awarded by DHSC as the contracting authority for NHSTT contracts whilst I was CCO at NHSTT.
- 7.24. As set out in paragraphs 4.59 and 4.60 of the UKHSA Commercial Statement, UKHSA's Anti-Fraud team confirmed that UKHSA has supported other departments and the NHS counter fraud teams with their enquiries, but I am not aware of the detail of the issues/proceedings that have underpinned those enquiries.

7.25. MPs and Ministers were not involved in procurement decisions or contract management. It would have been a breach of the ministerial code to lobby for a particular procurement decision.

NCA RO

NCA RO

7.26. I have already referred to the use of mailboxes for referrals from MPs and Ministers at paragraph 5.22 above. I am not aware of any supplier being given preferential treatment within the procurement process as a result of political connections. I do recall incidents where approaches were made by MPs on behalf of their constituents who had grievances about decisions that were made that impacted existing contracts (this was not in respect of the award of contracts). I did not consider this to offend the rules of propriety. These were examples of MPs representing businesses within their constituencies, rather than seeking to influence a prospective decision on a contract.

Section 8: Reflections and lessons learned

8.1. I have reflected upon my time as CCO of NHSTT and UKHSA, and I will share some of my reflections on lessons to be learned for procurement for future pandemics and other national crises. I believe that the people within NHSTT worked very hard, many making great personal sacrifices, and made a critical contribution to the pandemic response.

8.2. One of the biggest challenges for NHSTT Commercial was to stand up enough people with appropriate commercial expertise quickly. It was necessary to instruct external consultants because there were not enough available civil servants. There is also real value in having specialist commercial staff who know their way around the market, particularly for the niche markets. For example, my senior commercial specialist running all the procurement activity around Laboratories had spent her entire career in pharmaceuticals and so she could effectively talk to the scientists about the subject matter which was critical. I don't believe that NHSTT could have ramped up testing as it did without using professional services firms.

- 8.3. The supporting functions (such as Commercial) in whichever organisation is leading the crisis response need to be effective. It would assist to put in place contingency plans for emergency situations in terms of how commercial resources will stand up and support the central response. Currently the government emphasises the front-line response teams, but crisis management plans should look at the supporting functions as well to enable the whole to be dealt with.
- 8.4. I also think it is important for any commercial function to use specialist procurement software from the outset. This makes recording, collating and analysing contractual information and decision making much easier.
- 8.5. The existing contract management training that had been rolled out across the organisation prior to the pandemic was good. There was no time for staff to refresh knowledge in times of crisis. I believe there is a requirement for the delivery of contract management training in a crisis; a slimmed down version that is fit for purpose would be helpful. I think that developing some contract management lite training and a refresher course with the key points around which activities give the biggest benefit to efficiently manage contracts in a crisis would be beneficial.
- 8.6. I think the overall engagement with the market was challenging. On reflection, we could have made the procurement process clearer to smaller organisations. A lot of work has been done since on effective market engagement to better set expectations so organisations understand government's strategy and can prepare themselves. I also regret the backlog of unpublished contract awards when I was CCO. This allowed rumours to start about why awards weren't being published, when in fact it was just caused by pressure of work and missing contractual information.
- 8.7. The reforms introduced by the new Procurement Act 2023 will have a positive impact. The government's proposals for reform to the procurement rules due to come into force in February 2025 will help clarify the circumstances in which emergency procurements can be used.
- 8.8. I hope this statement has been of assistance to the work of the Inquiry in examining the issues around procurement during the COVID-19 Inquiry.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed:

Personal Data

Dated: 7 February 2025