

Witness Name: Karen Bailey

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UK COVID-19 INQUIRY

WITNESS STATEMENT OF

Mrs Karen Bailey, Chief Executive, Business Services Organisation

Introduction

- 1 My name is Karen Bailey and I am providing this statement to the UK Covid-19 Inquiry in my capacity as Chief Executive of the Business Services Organisation. I will say as follows. I came into the post of Chief Executive in June 2020, initially on a temporary basis, then was subsequently appointed on a permanent basis. My statement covers the period from 1 January 2020 up to the 28 June 2022, however in order to provide context on some points I will refer to activities prior to 1 January 2020.
- 2 The Business Services Organisation (BSO) is a shared service provider to Northern Ireland's Health and Social Care (HSC) bodies and was established, as an arm's-length body of the Department of Health (DoH), under the Health and Social Care Reform Act (NI) 2009. The new organisation, BSO, incorporated a number of previously established shared services functions (originally provided by the Central Services Agency which was dissolved by the HSC Reform Act) and included new shared services functions, specifically relating to payroll, finance and recruitment, which were to be established by the BSO by transfer of these functions from the other individual HSC bodies to central

management and delivery by BSO. Within BSO we refer to these shared service functions as “business units”. Each business unit forms part of an individual Directorate. As an arm’s-length body of the Department of Health (Sponsor Department) the Minister of Health is accountable to the Northern Ireland Assembly for the activities and performance of the BSO. As Departmental Accounting Office for the Department of Health, the Permanent Secretary is accountable to the NI Assembly for any “grant in aid” provided to BSO and designates the Chief Executive of BSO as the BSO’s Accounting Officer. Within the Department of Health, a Sponsor Branch is identified for BSO and is the primary source of advice to the Minister on the discharge of his responsibilities in respect of BSO, this Sponsor Branch also holds responsibility for procurement policy within the Department of Health. The Chairman of the BSO Board is accountable and responsible to the Minister of Health. I am the designated Accounting Officer for BSO. Procurement & Logistics (PALS) is part of the BSO’s Operations Directorate, reporting through a Head of Service to the Executive Director of Operations who in turn reports to the Chief Executive and to the BSO Board. During the pandemic the Department of Health established a Supply Chain Cell, with Sharon Gallagher, Deputy Permanent Secretary, as its Senior Responsible Owner, with whom BSO PaLS liaised, both directly and through supporting staff, regarding pandemic related supply chain matters. During the course of the pandemic the officer in the “Senior Responsible Owner - Supply Chain Cell” role changed within the Department of Health as did the operational liaison staff.

- 3 The provision of these shared services is to all HSC bodies, Northern Ireland Fire and Rescue Service (for select shared services only) and Department of Health (for select shared services only) and these services are subject to annually agreed Service Level Agreements (SLA) which set out the types and extent of services to be provided along with annually agreed business volumes. Fees are charged monthly for services and these fees are negotiated annually and are subject to efficiency targets each year. Service level agreements are typically “block contracts” which do not permit for variation in charges where activity volumes are above or below the agreed annual volume. The BSO recovers the cost of service delivery with no “profit” element and any surplus generated by business units through vacancies or additional efficiencies is either used by BSO to address cost pressures or returned to HSC bodies in-year if appropriate. BSO has a target to remain within tight financial constraints which require an annual

budgetary break-even. See Service Level Agreement provided at Exhibit KB/03 [INQ000498801].

- 4 The Business Services Organisation's Procurement and Logistics Service (BSO PaLS) was one of those previously established shared services, operating in a shared service capacity for all publicly funded health organisations since 1997 and between 1997 and 2009 was known as the Regional Supplies Service (RSS). The purpose of BSO PaLS is to provide a range of agreed standardised services associated with procurement and supply chain management on a centralised basis along with a limited range of bespoke services commissioned by individual HSC bodies (largely HSC Trusts). The common centralised services are specifically sourcing, contracting and purchasing of goods and services (with the exclusion of construction services), maintenance of online catalogues of contracted goods and services for online ordering by HSC staff, warehousing and distribution of a standardised range of commonly used consumable products (both medical devices and non-medical devices), ordering and replenishment of consumable products at ward level stores to reduce nursing time on management of ward stocks (known locally as EMM – Electronic Materials Management), operational day-to-day sourcing and purchasing of non-contract goods and services and a range of training and support services associated with standardised procurement and logistics systems across the HSC bodies. Examples of bespoke services include warehousing and home delivery of Community Equipment supplying products to support patients within their own homes and management of local hospital receipt and distribution centres to co-ordinate supply of goods throughout hospital sites which includes on-site operation of the EMM systems.

In terms of which part of the executive PaLS is responsible to, PaLS as part of BSO is accountable through the BSO Chief Executive as Accounting officer (AO) to the Department of Health Permanent Secretary (HSC AO). Within the Department of Health, a Sponsor Branch is identified for BSO and is the primary source of advice to the Minister on the discharge of his responsibilities in respect of BSO, this Sponsor Branch also holds responsibility for procurement policy within the Department of Health.

- 5 In 2002 the Northern Ireland Executive published the Northern Ireland Procurement Policy which required central government departments and their arm's-length bodies to

be advised by accredited Centres of Procurement Expertise (CoPEs). The policy established RSS and subsequently BSO PaLS as one of these Centres of Procurement Expertise and in the intervening years between 2002 and the writing of my statement BSO PaLS has been subject to successful re-accreditation every 4 years based on external review by an expert panel. As HSC organisations are subject to the NI Public Procurement Policy they are required to use BSO PaLS for procurement matters with the exception of construction procurement for which another CoPE has responsibility. For clarity, BSO PaLS advises on and supports all non-construction related procurement for HSC organisations however responsibility for application of public procurement policy within HSC lies with the Department of Health. These arrangements applied both prior to and during the Covid pandemic.

- 6 As a BSO business unit PaLS was established under the leadership of an Assistant Director whose role was to provide leadership and direction to procurement and logistics staff employed by BSO and act as the Subject Matter Expert for procurement and logistics for Health and Social Care in the role of CoPE Head of Procurement (as set out in the NI Public Procurement Policy). From 2009 until September 2020 this role was filled by Peter Wilson who, by his retirement in 2022, had over 39 years public procurement experience within the health service. In September 2020 Peter Wilson was appointed as Interim Director of Operations with PaLS forming part of his Directorate. From September 2020 to March 2022 the Assistant Director PaLS role was fulfilled by Linda O'Hare. In March 2022 the role of Assistant Director PaLS was split into two separate roles to reflect the critical nature of the separate specialisms of Procurement and Supply Chain in underpinning the work of HSC organisations. At that point BSO created two separate roles, the first being 'Assistant Director – Procurement', incorporating the roles of procurement Subject Matter Expert and CoPE Head of Procurement for HSC to which role Linda O'Hare was appointed. The second role of 'Assistant Director – Supply Chain' was established to provide subject matter expertise in respect of supply chain matters as well as bringing greater oversight and management resource to the range of associated functions lying within that area, in particular warehousing, distribution, stock management, materials management and the supply of community equipment direct to patients' homes. Jonathan Semple, who has over 20 years' experience in supply chain management, was appointed to the role of 'Assistant

Director – Supply Chain’. In respect of BSO PaLS, these three officers constituted the senior leadership team covering goods, services and supply chain during the period covered by my statement. I have provided fuller detail of the wider leadership team of BSO PaLS involved in supporting the pandemic response through procurement of PPE, equipment and testing in a separate document entitled “Key Information List Covid Inquiry Module 5” previously provided to the Inquiry’s legal representatives.

- 7 BSO PaLS procurement service is designed around the well-established approach of category management which is commonly defined as segmenting spending into areas containing similar or related products. This approach allows BSO PaLS to focus on opportunities for consolidation and generation of efficiencies, in the case of the latter specifically to leverage the volume expenditure carried out by HSC as a block of organisations. During the pandemic BSO PaLS adopted this approach in a more focussed way by dedicating resources to procure specific PPE products which would normally have been procured only as part of a wider category approach. BSO did not second staff from other government departments to support this specific work, rather it realigned its existing resources to make best use of existing skills and knowledge. BSO PaLS received support from Strategic Investment Board (SIB) in developing business cases for additional storage accommodation for PPE and additional funding for support from the Northern Health and Social Care Trust’s Medicines Optimisation and Innovation Centre (MOIC) which provided a technical assessment service checking standards certification for PPE and Covid impacted products being considered for purchase. Separately BSO PaLS developed a Product Review Protocol that built on the work of MOIC and introduced user assessment of products being considered for purchase by members of the Infection Prevention Control Cell, this protocol was introduced informally in May 2020 and formally approved in July 2020. Similarly, BSO PaLS Logistics teams had to adapt their processes to enable goods to be receipted, marshalled and distributed within 12 to 24 hours rather than follow normal processes that used a 3-day turnaround cycle. BSO PaLS Logistics service received specific resources to support the establishment of separate PPE warehousing capacity and to staff those additional warehouses. These changes had a significant impact on supply arrangements to Trusts and were introduced under cover of correspondence by the Chief Pharmaceutical Officer

to HSC organisations advised by BSO PaLS and issued on 23 March 2020 (Exhibit KB/01 [INQ000120711]).

- 8 Turning to relationships with other UK jurisdictions, prior to Covid BSO PaLS enjoyed productive mutually beneficial relationships with three key organisations. BSO PaLS had regular contact with NHS Supply Chain as a customer buying a range of products crucially including cleaning products and FFP3 facemasks. With Wales and Scotland BSO PaLS had a long-established practice of joint contracting with each of the three organisations (BSO PaLS, NWSSP Procurement and NSS Procurement) delivering economies of scale through aggregation of product volumes and spend. At the outset of the pandemic the nature of these relationships changed with NHS Supply Chain appearing to struggle to supply key products to Northern Ireland (in particular the cleaning products and FFP3 masks) causing a breakdown in supply from this route, whilst the relationships between NWSSP and NSS strengthened with sharing of information, increased contact and in some instances provision of mutual aid. As time progressed during 2020 mutual aid was sought and provided from England and Wales to Northern Ireland and from Northern Ireland to England, and I will address the matter of mutual aid later in my statement and in greater detail.
- 9 To support a greater understanding of the BSO PaLS operational structure I have provided an organisational chart setting out the reporting lines for BSO PaLS staff up to the BSO Chief Executive and down to BSO PaLS head of department level (Senior Procurement Manager). For its service provision and operational performance BSO PaLS is accountable through the BSO Board to the Minister of Health and performance to HSC organisations is managed through a series of organisational Procurement Boards and an overarching Strategic Partnership Board now chaired by a Deputy Permanent Secretary; prior to the pandemic this Board was chaired by the Permanent Secretary for Health.
- 10 In respect of procurement policy matters these are overseen by the Northern Ireland Procurement Board (NIPB) which was established by the Northern Ireland Procurement Policy and chaired by the NI Executive's Minister of Finance. This body is responsible for procurement policy in Northern Ireland (procurement is a matter devolved to the NI

Assembly) and matters of policy were disseminated prior to the pandemic as “Procurement Guidance Notes” (PGNs) and since January 2021 as “Procurement Policy Notes” (PPNs). As a Centre of Procurement Expertise BSO PaLS has a “dotted line” accountability to the Northern Ireland Procurement Board. Responsibility for application of public procurement policy within HSC lies with the Department of Health Procurement Policy Unit which sits within the Sponsor Branch responsible for BSO.

- 11 Under the NI Public Procurement Policy prior to the pandemic the NIPB was made up of the Permanent Secretaries of each NI Department, non-executive representatives drawn from interested stakeholders and representatives from Construction and Procurement Delivery (CPD). During this time the Department of Health and its Arm’s-length bodies were represented on the NIPB by the Permanent Secretary for Health. However, in January 2021 following the appointment of a new Minister for Finance the membership of the NIPB was changed, with the replacement of Permanent Secretaries by senior procurement practitioners drawn from the main spending departments within the NI Executive. BSO PaLS represented the health sector initially through the Interim Director of Operations (Peter Wilson) and upon his retirement the Assistant Director Procurement (Linda O’Hare). The non-executive stakeholders were also reviewed and a wider set of representatives covering construction, manufacturing, small business, social enterprise and trade unions joined the NIPB.
- 12 Under the auspices of the NI Public Procurement Policy HSC organisations do not routinely carry out procurement exercises to purchase goods and services however I understand that during the pandemic some very small amounts of PPE were procured directly by HSC Trusts although I am unable provide details of individual products, volumes or actual expenditure.
- 13 Alongside my statement I have provided to the Inquiry’s legal representatives a list of key internal and external meetings along with details of attendees and any documents held regarding those meetings – Exhibit KB/42b [INQ000498796].
- 14 I have also provided copies of the Northern Ireland specific Procurement Guidance Notes applicable immediately prior to the pandemic along with copies of BSO PaLS

internal procedures in place prior to the pandemic and any guidance issued by BSO PaLS to staff in respect of procurement during the period covered by my statement which included a Product Review Protocol developed to support procurement of fit for purpose PPE. See exhibits KB/10a [INQ000498729] and KB/10b [INQ000498730] in this regard.

- 15 Significantly for BSO PaLS the remit that it had was expanded during the pandemic when BSO PaLS was directed by the Department of Health to expand regular supply of PPE to GP Practices, Community Pharmacies, Optometrists, Dental Hubs (set up in the early surge of the pandemic) and independent healthcare providers (care homes and domiciliary care services) which were supplied through HSC Trusts. This expansion had a significant impact on the volumes of PPE that had to be acquired, in particular when BSO PaLS was directed to make supply available to the independent sector.
- 16 The Inquiry will wish to know that in 2021 the Northern Ireland Audit Office carried out a review of the supply of PPE during the pandemic and published its findings and recommendations in a report entitled "The COVID-19 pandemic: Supply and procurement of Personal Protective Equipment to local healthcare providers". I have provided this report as Exhibit KB/02 [INQ000281185].

Prior to the Covid-19 pandemic (in particular, June 2009 to March 2020)

- 17 Prior to the pandemic, from 2009 BSO PaLS was responsible for procurement and supply of goods and services to all health and social care arm's-length bodies of Department of Health and in financial year 2017/18 added the Northern Ireland Fire and Rescue Service to its list of "customers". The goods and services included ICT and Social Care Services with the latter in an advisory capacity only up until financial year 2016/17, after which full procurement services for above threshold expenditure were introduced. In respect of the supply of goods to social care providers, BSO PaLS' remit extended only to those social care services provided directly by HSC Trusts and not to services provided by third parties under contract to HSC Trusts. The legislation which established the Business Services Organisation (Health and Social Care Reform Act (NI) 2009) restricts BSO to provide services to the Department of Health family of

arm's-length bodies and any extension of services outside that scope requires a direction from the Department of Health.

- 18 BSO PaLS was not directly involved in putting together the Pandemic Influenza Preparedness ("PIPP") stockpile, the lead Health body on behalf of Northern Ireland was the Department of Health. However, BSO PaLS did provide advice to DoH Emergency Planning Branch on steps to recycle perishable products through BSO PaLS warehouse which resulted in Northern Ireland declining some of the nationally procured products in favour of products procured from BSO PaLS contracts thus ensuring compatibility with products currently in use within HSC bodies.
- 19 As part of its relationship with the Department of Health BSO PaLS provides a storage and distribution service to the DoH's Emergency Planning Branch in respect of the Pandemic Influenza Preparedness stockpile (PIPP). This service is best described as safe custody of the stockpile but does not extend to control of or authority over the stockpile. The arrangements are set out in an annually agreed Service Level Agreement (SLA), this SLA also sets out the process of approval for deployment of the stockpile to HSC organisations in the event of an emerging threat. I have provided a copy of the Service Level Agreement in place at the commencement of the pandemic as part of the evidence submitted along with this statement - Exhibit KB/03 [INQ000498801]. BSO PaLS were consulted on the draft PIPP plans in respect of product stockpiles and advised on potential options to rotate PIPP stock through the BSO PaLS warehouse to minimise obsolescence in the stockpile, however this could only apply to a restricted range of products not to all products held in the stockpile. In some specific instances BSO PaLS advised that NI should not take PIPP stocks from a central procurement but should use locally awarded contracts in order to maintain a consistency of product in use between the PIPP stockpile and the standard products supplied by BSO PaLS warehouse. This would reduce the risk of obsolescence and minimise disruption to frontline staff when these products were deployed, the range of products covered by this arrangement were gloves. BSO PaLS was not represented in any detailed discussion at a national level on the approach to the PIPP stockpile.

- 20 BSO PaLS services in respect of the PIPP stockpile did not extend to the safe custody of any pharmaceuticals contained within that stockpile. The safe storage, maintenance of stock and deployment of pharmaceuticals associated with the PIPP Stockpile was contracted out to Movianto Ltd based in Belfast. The procurement of this service was carried out by BSO PaLS however the day-to-day management of the contract is delegated to the Regional Pharmaceutical Procurement Unit by Department of Health. This Unit employs specific resources for the purposes of managing that contract. I am unable to provide comment on the operation of this aspect of the PIPP stockpile.
- 21 The majority of products held in the PIPP stockpile are procured nationally and deployed to BSO PaLS which acts on behalf of Department of Health in storing and deploying the stockpile. Where there was agreement between BSO PaLS and DoH to maintain PIPP stocks with products/brands currently in use within HSC and thus enable those stocks to be rotated through BSO PaLS warehouses, this was done. The items covered by this arrangement were gloves in sizes S, M and L and they were successfully rotated through the warehouse without any losses due to expiry dates. The normal procurement arrangements put in place by BSO PaLS on behalf of HSC were used to procure these items. By and large, these take the form of contracts with indicative volumes and are let and managed by BSO PaLS category management teams, known locally as sourcing teams. Product selection is undertaken by suitably skilled staff (clinical staff in the case of clinical products) based on a well-established process which complies with the Public Contracts Regulations 2015 and involves scoring of both qualitative and financial aspect of offers with the latter scored by BSO PaLS staff using a pre-published formula. The system used is known as a “two-envelope” system which prevents corruption of qualitative scores by separating the evaluation of these two aspects of the bidding process.
- 22 When it comes to healthcare equipment this operates slightly differently in that there is a greater reliance on framework agreements let either by other healthcare procurement organisations such as NHS Supply Chain or on framework agreements let directly by BSO PaLS on behalf of HSC organisations. In all instances the frameworks are let in compliance with the Public Contracts Regulations 2015. When the equipment is required

this is called off the framework in accordance with the rules of the framework and in compliance with the regulations.

- 23 In respect of procurement arrangements put in place by BSO PaLS the Department of Health would only be involved where they are a party to the contract being awarded or are directing a third party to act on their behalf. To illustrate this point DoH would have representation in the evaluation of the contract for maintenance of the PIPP pharmaceutical stockpile as the contract is between the supplier and DoH but would not be represented in the evaluation of products being used directly by HSC organisations. In respect of Public Procurement Policy the Department of Health did remain responsible for the application of the policy within the HSC family of organisations.

Supply chain resilience

- 24 Disruption to supply chains to Northern Ireland was largely confined to those associated with the supply of PPE, Covid related products (such as cleaning products, wipes, sanitiser), some laboratory consumables and needles for vaccination as well as some delays in the supply of equipment for critical care.
- 25 In respect of PPE, demand rose exponentially during the first 6 months of 2020 for the 6 core items contained in the Public Health England guidance i.e. examination gloves, disposable aprons, disposable gowns, Type 2R facemasks, FFP3 masks and eye protection. I have provided as evidence a table showing the comparative demand for masks prior to the Covid pandemic – see Exhibit KB/04 [INQ000498802] - during March 2020, during June 2021 and during June 2022 to illustrate this point. During the period covered by the Inquiry for Module 5 the table shows how demand for key products varied over time. The disruption that occurred took the form of a breakdown in supply from contracted suppliers with the resultant need for BSO PaLS to actively re-source suitable products from alternative providers. This involved using previous contractors/suppliers to supply products, sourcing alternative new suppliers to manufacture and/or supply suitable products and following up contacts and leads coming to BSO PaLS either directly or through a third party (I have provided evidence of such contacts as part of my statement at the section headed “The Buying Process” – see exhibits KB/04a

[INQ000475589], KB/04b [INQ000475590], KB/04c [INQ000498728], KB/04d [INQ000498815], KB/04e [INQ000498816], KB/04f [INQ000498818], KB/04g [INQ000498819], KB/21[INQ000498814] and KB/22 [INQ000498817].

- 26 The greatest challenge relating to PPE products was in sourcing sufficient suitable FFP3 masks. It quickly became apparent that HSC needed to adopt a different approach from its pre-pandemic arrangements. FFP3 masks were advised for use in carrying out aerosol generating procedures and were worn on a sessional basis in areas such as intensive care units and areas where Covid patients were being ventilated. Prior to the pandemic, Northern Ireland had standardised on the 3M 1895 FFP3 mask as it achieved a high pass rate on fit-testing and the mask was purchased from NHS Supply Chain. Sourcing this mask was extremely problematic when the pandemic occurred as NHS Supply Chain was unable to supply and this was compounded by 3M switching production for the UK to different models of mask leaving the 1895 mask virtually unobtainable. The different approach we adopted was to source alternative FFP3 masks; BSO PaLS undertook this work. Elsewhere in my statement I have provided details of the actions taken to source suitable alternatives and set out in my evidence the details of the offers of FFP3 masks which were explored. This standardisation caused complications in sourcing alternative FFP3 masks as staff had to be fit-tested for any alternative sourced with varying success rates of fit-testing for the alternative masks. However, this was not the only challenge faced for PPE. With Type 2R facemasks, staff were used to a tie-back version rather than ear-loop fixings, however manufacturers of facemasks were focussing production on ear-loops as they were quicker and cheaper to manufacture. This change lead to initial resistance to the ear-loop masks from HSC staff but this was overcome and this version has since become preferred by staff. I provide this example simply to illustrate that the challenges resulting from disruption to supply where not confined to securing supply alone.
- 27 As well as the disruption to supply of PPE there was also significant disruption experienced in supply of what I will refer to as "Covid related products" many of which were sourced from NHS Supply Chain. I have provided a list of these products as evidence in my statement on Module 3 of the Inquiry and provide that list again as part of the evidence accompanying this statement – see Exhibit KB/05 [INQ000446227]. Like

PPE, BSO PaLS sourced alternative suitable products using the same approaches: using previous contractors/suppliers to supply products, sourcing alternative new suppliers to manufacture and/or supply suitable products and following up contacts and leads coming to BSO PaLS either directly or through a third party.

- 28 In addition to the list provided as Exhibit KB/05 [INQ000446227], we also experienced shortages in supply of consumables used as part of the vaccination process, in particular needles. This shortage was experienced on a national basis and BSO PaLS worked with colleagues in NHS England, NHS Scotland and NHS Wales as well as suppliers to secure suitable volumes of product to enable vaccination to proceed.
- 29 Whilst my previous paragraphs have focussed on supply chain disruption for consumable products, we also experienced some delays to supply of critical care equipment to Trusts from suppliers. The biggest delays experienced were in the supply of ventilators from Draeger Medical. Orders placed in March 2020 received a partial delivery in December 2020 with final order completion in December 2021. This was not the only source of Ventilators and equipment purchased from other suppliers along with supply of ventilators from the UK central purchase reduced the impact of these delays. I have no knowledge or evidence of this having an adverse impact on patient care and I would respectfully suggest that HSC Trusts would be better placed to comment in that respect. I can advise the Inquiry that BSO PaLS supported HSC organisations in early ordering of additional critical care equipment and worked with the Critical Care Network Northern Ireland (CCaNNI) to identify and purchase suitable equipment. First orders for such equipment were placed by BSO PaLS on behalf of HSC organisations on 23 March 2020 and support from BSO PaLS in obtaining suitable equipment carried on throughout the pandemic. Disruption of supply occurred largely as market-leading manufacturers were swamped by demand leading to protracted delivery periods for popular brands of equipment.
- 30 BSO PaLS business continuity plans focussed on the potential risk of loss of a physical site or loss of systems. BSO PaLS has for many years had in place on-call arrangements that are designed to address emergency incidents as and when they arise within Northern Ireland however these are designed to support a short-term isolated

incident and not an event that extends over a period of months or years. I am not aware of preparations elsewhere in Northern Ireland's devolved administration that addressed wide-scale supply chain disruption. Given the extent of the supply chain disruption which occurred I think it unlikely that any business continuity plan could have anticipated the scale of the disruption that occurred as a result of the Covid pandemic. BSO and BSO PaLS along with all parts of the health and social care sector had preparations in place that anticipated supply chain disruption resulting from EU Exit and I will explain these in greater detail elsewhere in my statement.

- 31 The purpose of the Pandemic Influenza Preparedness Programme (PIPP) stockpile was to support continuity of service to HSC organisations in the event of an influenza pandemic occurring. In learning lessons from the Covid pandemic I think it is important that future plans should include provision of a larger stockpile of key products in order to mitigate the potential for widespread supply chain disruption.
- 32 I think it is important to provide some background on the arrangements currently in place in Northern Ireland Health and Social Care organisations as this provides context to the supply chain arrangements that BSO PaLS puts in place with suppliers to health in Northern Ireland. BSO PaLS has worked closely with HSC organisations to support management of the supply chain into those organisations through balancing centrally procured common use products warehoused by BSO PaLS (commonly referred to as "stock products" with direct supply products purchased direct from suppliers and delivered through Trust based "receipt and distribution points" where the user department is hospital based) to frontline healthcare services for use, such products are referred to as "non-stock".
- 33 In supporting HSC organisations, BSO PaLS has a well-developed materials management system operating between its central warehouses and individual hospital wards and clinical areas, this is known as Electronic Materials Management abbreviated to "EMM". The EMM arrangements apply to products warehoused by BSO PaLS and establish a ward based "Kanban" system where 24 days of stock is held at ward level with stock replenishment triggered when the stock level falls to 12 days. Replenishment from the BSO PaLS warehouses takes between 3 and 7 days depending on the nature

of the Trust clinical department being replenished - for example a high activity Intensive Care Unit or theatre facility might be replenished in a 3-day cycle whilst a general medical ward on a 7-day cycle. These locally based stockholding arrangements are underpinned by an average 4-week stock level held at BSO PaLS' central warehouses thus providing HSC managed stock resilience of between 33 and 52 days in normal circumstances.

- 34 In terms of the supply chain arrangements in place with suppliers prior to the Covid pandemic, contracts awarded by BSO PaLS set out the delivery arrangements applicable dependent on the nature of goods ("stock" or "non-stock"), they did not specifically address the potential for supply chain disruption other than through contractual clauses which addressed the actions permitted in the event of a breakdown in supply, i.e. HSC's rights to purchase alternative products in the event of supply breakdown and to charge any additional costs incurred to the contractor. I can confirm that BSO PaLS has taken such action in the past where significant incidents of supply breakdown have occurred.
- 35 Towards the end of the first pandemic surge in Northern Ireland, BSO PaLS developed a "Supply Chain Strategy - PPE Products" (copy provided as Exhibit KB/06 [INQ000446232]) to support decision making. This strategy proposed a minimum stockholding of 3 months modelled demand underpinned by a schedule of weekly deliveries of PPE products to support maintaining the 3-month stockholding. The strategy described how this would be achieved through reducing the dependence on far-shore supply of PPE (supply from the Far East) and increasing the PPE sourced through a combination of local and near-shore manufacture.
- 36 Due to the size of Health and Social Care in Northern Ireland, BSO PaLS and its customer organisations pursued a policy of standardisation and variety reduction in common use products including those such as aprons, gloves and facemasks. Such a policy enables economies of scale to be achieved and supports efficient warehousing and supply; it also enables the movement of staff between healthcare facilities and minimises disruption in working practices. The operation of effective materials management and central stock management protects against day-to-day supply chain

delays but is not designed to protect against the disruption to supply chains experienced as a result of Covid and other events during the pandemic such as the closure of the Suez Canal following a vessel running aground. BSO PaLS therefore did not consciously consider risk of wide-scale supply chain disruption to be a critical factor when competing contracts for supply of goods or services to HSC organisations.

- 37 In addition to preparations already in place for the UK's exit from the European Union (EU) and following BSO PaLS involvement in the HSC Silver Command structure (the Assistant Director – Procurement and Logistics joined HSC Silver Command on 24 January 2020) following discussion between the Head of Logistics and the Assistant Director a decision was taken to raise levels of PPE stocks to 3 months based on normal levels of usage, this decision was taken in the absence of any available data on modelled demand. On 31 January 2020 DHSC commenced a WN-Covid Supply Chain Cell series of meetings. At this first meeting it was identified that “RWC modelling” (reasonable worst case) was being worked up by NHS England and Public Health England at the time to trigger PIPP “just in time” supply. At subsequent meetings, commencing on 2 February 2020, requests were made by Devolved Administration members of that group for visibility of modelling to enable demand planning to take place. This group ceased to exist by the end of March 2020 and no central modelling was ever forthcoming through the group. It was not BSO's remit to model demand, this came through the Silver command structure and the Northern Ireland Public Health Agency (PHA) and Health and Social Care Board (HSCB) led work to obtain early stage modelling information used to support demand planning. I will cover modelling in more detail elsewhere in my statement.
- 38 In respect of equipment and critical care consumables, e.g. ventilators, monitors, oxygen tubing etc following a “Surge Planning” meeting, involving key HSC organisations and representatives from key internal stakeholders, BSO PaLS engaged with the Chair and key members of the Critical Care Network Northern Ireland (CCaNNI) to support the acquisition of key equipment and consumables. Further support on this was later provided by Professor Michael Scott, Director of Medicines Optimisation and Innovation Centre (MOIC) who co-ordinated with CCaNNI on the consumable's requirements. A total of 50 purchase orders for critical care equipment to support the response to the

pandemic were placed between 23 March 2020 and 13 January 2021 with all but five orders placed between 23 March 2020 and 30 April 2020. Delivery of the equipment commenced in early April 2020 with the last delivery taking place in December 2021.

- 39 Towards the end of the first pandemic surge in Northern Ireland, BSO PaLS developed a "Supply Chain Strategy - PPE Products" (copy provided as Exhibit KB/06 [INQ000446232]) to support decision making. This strategy proposed a minimum stockholding of 3 months modelled demand underpinned by a schedule of weekly deliveries of PPE products to support maintaining the 3-month stockholding. The strategy described how this would be achieved through reducing the dependence on far-shore supply of PPE (supply from the Far East) and increasing the PPE sourced through a combination of local and near-shore manufacture.
- 40 Contracts to supply HSC organisations either through BSO PaLS warehoused stocks or through direct non-stock supply did not routinely provide for surges in demand such as those experienced during the Covid pandemic. The contracts entered into provided estimated volumes of products to be supplied annually over a 3 to 5-year period. The contracts provided for some flexibility in product demand based on the routine growth of demand for healthcare services through the use of clauses permitting variation of contract. I have provided a copy of HSC's standard terms and conditions and Commercial Conditions of Contract as Exhibits KB/06a [INQ000498784], KB/06b [INQ000498787], KB/06c [INQ000498788] and KB/06d [INQ000498789]. In respect of why such a "surge" provision was not included within pre-Covid supply contracts I suggest this was because no such commission or requirement had been made of BSO PaLS. A stockpile of products existed under the PIPP provisions and previous experience of pandemics such as SARS in 2003 and Swine Flu in 2009 did not have anything like the impact on supply chains that accompanied the Covid pandemic. Indeed, I think it unlikely that had such surge provisions been present within contracts for PPE in advance of Covid that contractors would have been able to meet such demand as was experienced during the first surge of Covid. By way of example during 2019 the average weekly issue of Type 2R facemasks to HSC from BSO PaLS warehouses was 33,419 masks; in the week preceding BSO PaLS Surge Forecast v Demand Report published on 4 April 2020, the weekly issue of Type 2R facemasks from BSO PaLS

warehouse was 780,950 masks - approximately a 2237% increase. I would say that, with the benefit of hindsight, substantial supply chain disruption should have been considered in greater depth by BSO PaLS as part of its business continuity plans, however any such provision would have to be balanced with the financial risks associated with excess inventory and obsolescence.

- 41 Following the UK's decision to leave the EU, work commenced in 2017/18 to make plans in preparation for the UK's formal exit from the EU, the assumption for this planning was a "hard exit" which it was considered might have an adverse impact on the flow of goods into the UK and more particularly into Northern Ireland. BSO PaLS was responsible for considering the requirements for goods (with the exception of pharmaceutical products) with HSC and to lead on supply chain preparations, liaising with DHSC nationally on supplier readiness and co-ordination of supply chain disruption responses on behalf of HSC organisations.
- 42 To minimise disruption BSO PaLS identified a list of products held in our warehouses that constituted products critical to maintaining services based on the premise of protecting and sustaining life. I have provided a detailed list of these products at Exhibit KB/08 [INQ000498803]. Products considered were wide-ranging, covering many different product categories including medical devices. In addition, a list of products purchased regularly by HSC Trusts direct from suppliers was supplied to those organisations to enable them to similarly identify products critical to maintaining services, the list was based on the principle of goods ordered 12 times or more per annum. Once these products had been identified, BSO PaLS raised the levels of stock of critical products in our warehouses to 12 weeks stockholding (whereas normal levels were 4 weeks) and advised HSC Trusts to take similar action for those direct supply products they considered critical, and again information was provided to HSC Trusts to assist them in this regard. Subsequently by January 2020 BSO PaLS and HSC Trusts were carrying stock levels for products critical to maintaining services of 12 weeks.
- 43 In parallel to raising stock levels, BSO PaLS also identified a range of critical suppliers which included those supplying the critical products previously mentioned but extended beyond that to include suppliers of perishable products and the like, where a 12-week

stockholding was not possible or practical. In partnership with colleagues in DHSC, NHS Wales and NHS Scotland, BSO PaLS contacted suppliers unique to Northern Ireland to ascertain their level of preparedness for the EU Exit using an agreed standardised questionnaire, whilst colleagues in DHSC contacted those suppliers common to all 4 Home Nations. This provided a comprehensive picture of supplier readiness as we entered 2020. BSO PaLS also worked with DHSC to support the Northern Ireland National Supply Disruption Response service designed to support health care organisations when supply disruption occurred by enabling escalation of problems to a national team and if necessary access interim arrangements which had been advised upon by centrally co-ordinated clinical expert teams.

- 44 It is my view that the work carried out by BSO PaLS in raising stock levels within our warehouses and advising our sister HSC organisations on raising stock levels of critical products provided some protection for HSC from the early impact of the pandemic.

During the Pandemic

- 45 BSO PaLS delivers to the buying decisions of their customer organisations when selecting medical equipment and/or supplies. Decisions were informed by a number of groups, in particular:
- The Critical Care Network for Northern Ireland (CCANNI) which was involved in selecting critical care equipment such as ventilators for purchase locally (i.e. not the nationally procured equipment deployed centrally by HM Government)
 - Medicines Optimisation Innovation Centre which carried out the technical assessment of PPE items prior to purchase.
 - Infection Prevention Control Group which quality assured PPE procured before purchase.
 - Clinical staff previously involved in the selection of devices where the contracted brand was not available in the event that another bidder could supply. These were staff who made up the Contract Adjudication Group involved in selecting the original device on contract.
 - Supply Chain Group (operational) where volumes of products were concerned.
 - Modelling Cell in respect of providing information to inform demand planning.

- 46 BSO PaLS did not operate a list of approved suppliers as such. During the pandemic, where no previous contract or framework agreement existed, BSO PaLS was responsible for selecting and approving suppliers of PPE and Covid-impacted products once the product on offer was assessed and accepted. Approval for items such as PCR tests where they were not covered by existing laboratory supplies contracts lay outside the remit of BSO PaLS.
- 47 On the 11 March 2020 BSO PaLS issued a questionnaire to critical suppliers in an effort to establish their ability to supply goods in the face of possible supply chain disruption. The suppliers deemed critical were those identified as part of the preparations for EU Exit made during the period 2018 to 2020. In respect of BSO's warehouse this represented suppliers supplying goods deemed critical to sustaining life. A further definition was applied to suppliers supplying medical goods to Trusts on a direct basis and these were considered critical where they supplied products more than 12 times per annum i.e. at least once per month. I have provided additional details on the survey including an email from Peter Wilson dated 11 March 2020, attaching letter from Steve Oldfield and proforma questionnaire at Exhibits KB/07a [INQ000528858], KB/07b [INQ000528852] and KB/07c [INQ000528853]. This questionnaire was based on a similar questionnaire issued in advance of the UK's exit from the European Union. The purpose of the questionnaire was to identify areas where potential supply pressure might arise however the questionnaire did not envisage disruption of the scale that was experienced. The results of the questionnaire helped to inform BSO PaLS staff charged with sourcing goods. Once the level of supply chain disruption became obvious to BSO PaLS, the criteria for supplier selection was directly associated with the supplier's ability to promptly supply products which met the required standards and passed the product assessment processes put in place. Guidance issued to staff in addition to the already well-established BSO PaLS "re-sourcing process" is provided at Exhibit KB/07 [INQ000325674]. From July 2020 onwards, the process for supplier selection for supply of PPE was clearly set out in the Dynamic Purchasing System established by BSO PaLS and I have provided copies of DPS documents as part of my evidence submission at Exhibit KB/09 [INQ000498804], Exhibit KB/10 [INQ000498805] and KB/11 [INQ000498806].

- 48 The period of the pandemic between January 2020 and July 2020 differed from BSO PaLS' normal processes as the competitive processes normally applied were not appropriate for dealing with the immediacy required to secure sufficient volumes of PPE, equipment or Covid-impacted products. BSO PaLS' normal processes involve open competitive tendering for all goods and services or the establishment of framework agreements which support competition whilst permitting more agile procurement to take place. In Northern Ireland prior to the pandemic approximately 91.5% of expenditure influenced by BSO PaLS was subject to competition and 80% of transactions were conducted through BSO PaLS online catalogues. I provide this information to demonstrate how BSO PaLS' normal *modus operandi* was use of open competition to select suppliers and products, and the approach adopted during the pandemic was therefore fundamentally different to that pre-pandemic.
- 49 In addition to this fundamental departure from BSO PaLS' normal process, the selection of suppliers was more directly aligned to the availability of suitable products. Where there was prior experience of the supplier concerned i.e. where they were an established or previous supplier, risk was considered lower than using an unknown supplier and payment terms sought. In considering supplier selection, the price being offered was considered of less importance than the availability of the product offered when there was a risk of breakdown in supply occurring.
- 50 It is difficult to judge whether or not the approach adopted by BSO PaLS during the first 7 months of the pandemic differed from processes applied during other emergencies as nothing of the scale, rapidity or widespread disruptive nature of the Covid-19 pandemic had been experienced before. However, BSO PaLS has made use of Direct Award Contracts in the past to ensure continuous supply of products for possible pandemic incidents (Swine Flu and SARS) or where continuity of supply is at risk and the basis of the award of those contracts has been the availability of suitable products or services. Therefore, in my view the only significant difference in approach would have been the source of the supply i.e. coming from unsolicited approaches from suppliers or via a public call for assistance. The reason for such difference I would consider to be the disruption to the supply chain for PPE caused by the rapid spread of the pandemic

across the globe, its severity of impact on individuals, the contagious nature of the disease and the subsequent worldwide demand for PPE which this created.

51 During the pandemic suppliers were identified and selected largely based on their ability to supply suitable products, meeting the required standards, that were urgently needed to support the response of Northern Ireland's Health and Social Care system. The PPE products being offered were subject to a technical and quality assurance process set out in the PPE Product Review Protocol (Exhibit KB/07 [INQ000325674]) prior to consideration for purchase and if passed then the terms of the offer were considered (price, payment terms, delivery considered against a backdrop of stock in hand) and a risk assessment was carried out signed off by the Assistant Director Procurement and Logistics with any decisions to purchase involving pre-payment notified to BSO's SMT at regular intervals. For equipment, BSO PaLS largely sought to purchase known brands from established framework suppliers and where these proved unsuccessful the specifications of equipment offered by alternative suppliers were reviewed by clinical experts and approved prior to purchase. In respect of Covid impacted products such as cleaning materials, suppliers were selected based on their ability to supply products to required specifications, in most cases these were suppliers already known to BSO PaLS. Later in my statement (paragraphs 082 to 088) I will set out in greater detail the 5 different approaches taken by BSO PaLS to identify and select suppliers, in summary those approaches were:

- Use of existing contracts or frameworks previously established for the goods or equipment required.
- Proactively approach previous contractors for the goods or equipment required.
- Offers received from potential suppliers either unsolicited or in response to the national and local calls for offers of assistance.
- Develop local manufacturing capability.
- Dynamic Purchasing System (DPS) established under the Public Contracts Regulations 2015 to procure PPE and related products/services for further Covid surges anticipated during the course of the pandemic This provided a flexible procurement tool to enable competitions for the supply of PPE and related products or services to be run quickly and at short notice to drive value

for money by providing a list of pre-qualified suppliers who could join or leave the system at any time during its lifetime.

- 52 Once the first surge of the pandemic in Northern Ireland had passed and the Dynamic Purchasing System was established (July 2020) the criteria for selection of suppliers of PPE and related products was based on those set out in the DPS (Exhibit KB/09 [INQ000498804]). At this stage, BSO PaLS had secured sufficient supply of products, alongside contracts to develop locally manufactured PPE, to allow a greater discretion in the selection of suppliers than was the case during the first 7 months of 2020.
- 53 Prior to the pandemic there was a well-established process for approval of Direct Award Contracts and this was set out in guidance issued by the Department of Finance and by Department of Health. I have provided a list of the guidance applicable prior to and during the pandemic as Exhibits KB/10a [INQ000498729] and KB/10b [INQ INQ000498730]. The guidance on approval of Direct Award Contracts (DACs) required that any DAC, either singly or collectively over time, exceeding the procurement threshold for Schedule 1 bodies under the Public Contracts Regulations 2015 must be approved by the Permanent Secretary for Health prior to entering into any contract. DACs presented to the Permanent Secretary must first be authorised by the Chief Executive of the requesting organisation. DACs below the procurement threshold may be approved by the Chief Executive of the applicable organisation or by their authorised deputy (generally this would be the organisation's Director of Finance). During the pandemic BSO requested an amendment to the approval process for DACs exceeding the procurement threshold to permit approval to be given by the organisation's Chief Executive and this derogation was approved by the Department of Health's Permanent Secretary. This derogation to extant guidance was requested to prevent possible delays to DAC approvals at a time when rapid decision-making was necessary to secure healthcare equipment and supplies (including PPE). I have included both items of correspondence on this matter (Exhibits KB/10c [INQ000498790] and KB/10d [INQ000498791].
- 54 Pre-pandemic DACs were largely sought for reasons as provided for in regulation 32.2 (b) and 32.5 (b) of the Public Contracts Regulations 2015 which relate to technical

compatibility, exclusive rights and technical characteristics. Examples of such instances would include proprietary pharmaceuticals, software support and compatibility of equipment in place. DACs prior to the pandemic were awarded on the HSC standard terms and conditions for goods and services and this was usually confirmed through the issue of an official purchase order by BSO PaLS on behalf of the HSC organisation entering into the DAC. On occasion terms may have been varied where exclusive rights might apply as the reason for the DAC but such instances were very much the exception. BSO PaLS did not routinely use DACs as a means to procure goods stocked in its warehouses prior to the pandemic.

- 55 Management of the contract resulting from a DAC is the day-to-day responsibility of the originator of the DAC, i.e. the requester from within the HSC organisation. This applied prior to, during and after the pandemic. The originator must ensure that the subject matter of the contract is successfully delivered and address any failure in delivery with the supplier. For all DACs, BSO PaLS provides written advice to the requestor through its Compliance Unit and Head of Compliance and where a DAC was for supply or service over a prescribed period of time and/or a specific cost over a specified period, BSO PaLS tracks both the time period and the expenditure associated with the DAC (for BSO PaLS internal purposes only as responsibility for this lies with the Contracting Authority). This was the case before, during and after the pandemic period.
- 56 BSO did not procure medical equipment for its own use. Neither BSO nor BSO PaLS has any knowledge of what testing of such equipment took place prior to deployment to service, this would be a matter for the organisation ordering the equipment. In respect of Covid-related goods purchased and received by BSO for onward supply to HSC organisations, I can advise that prior to the introduction of the Product Review Protocol BSO PaLS procurement teams sought assurances from suppliers that goods met the applicable standards and logistics staff carried out only visual checks of the goods delivered on each delivery. From March 2020 samples were provided to MOIC for verification checks against the previously approved documentation and sample. HSC relied on the technical assessment and quality assurance testing carried out prior to purchase and feedback from users of the product once in circulation to ensure fitness for purpose. From late March 2020, MOIC became involved in the technical assurance role

which was later incorporated in the Product Review Protocol. Whilst the Product Review Protocol was not formally approved until July 2020, the process and requirements set out in the Protocol were being applied in full from May 2020.

- 57 Specific counter fraud checks were carried out by BSO PaLS in two areas. Firstly, in an effort to avoid procuring counterfeit 3M FFP3 masks, BSO PaLS liaised with 3M to validate that anyone offering this brand of mask was an accredited distributor of 3M and if this was found not to be the case the offer was not pursued. Secondly, as part of the risk management activity when considering payments in advance (in full or in part) all companies being considered for such contracts were subject to checks to establish the bona fides of the organisation. I have set these checks out in greater detail later in my statement at paragraphs 163 to 165. Counter Fraud checks were carried out by BSO PaLS buyers involved in sourcing goods to support HSC's response to the pandemic.
- 58 I am not aware of any guidance being issued by the Department of Finance on processes or checks to follow specifically for procurement of key healthcare equipment and supplies. The Department of Finance published PPN 02/20 "Supplier Relief Due to Covid-19" which provided some guidance on the use of pre-payment during the pandemic, amongst other things – see Exhibit KB/10e [INQ000048823].
- 59 Prior to the Covid pandemic the standard procurement process incorporated a range of checks and terms and conditions of contract that provided assurance and protection. Elsewhere in my statement I have set out these procurement processes (paragraphs 161 to 162) and have provided a copy of standard terms and conditions of contract as part of my evidence. Recognising the unique circumstances of the pandemic and the increased risk of fraud that presented, BSO had to consider the need for additional checks. In the absence of specific guidance on this matter coming from the centre BSO PaLS carried out Counter Fraud checks in two areas. Firstly, checks were carried out on contacts offering 3M FFP3 masks as these were known to be subject to fake reproductions sold as genuine masks. The checks on 3M masks involved liaising with 3M to establish if the contact making the offer was an accredited 3M distributor and if not, the offer was not pursued. The second set of checks were carried out on all companies seeking payment in advance (either in full or in part), I have set this out in

more detail elsewhere in my statement. The pre-payments involved in these contracts represented 5.19% of BSO's Covid expenditure.

60 I have provided evidence of companies over which counter fraud checks were carried out in two items of evidence. Those items are "FFP3 Leads Counter Fraud Checks" (Exhibit KB/13 [INQ000498808]) and "Prepaid Stock Order Governance Log". (Exhibit KB/13a [INQ000498750]). These two items of evidence comprise the list of suppliers over whom BSO PaLS carried out specific checks aimed at preventing fraud.

61 BSO had a number of spending controls in place, these included:

- the BSO's Scheme of Delegated Authority, which sets out the levels of order authorisation for staff members based on role and grading.
- For additional expenditure outside the BSO's normal budgetary constraints the Business Case process applied whereby BSO sought additional funding for capital expenditure or new, novel or contentious revenue expenditure (this did not include stocks of PPE purchased for onward supply during the pandemic). An example of this would be the Business Cases produced by BSO PaLS to secure funding for additional warehousing for PPE storage during the pandemic. I have provided a copy of HSC(F) 25-2020 Covid 19 Funding and Approvals Processes as Exhibit KB/14 [INQ000130406]. This was issued by the Department of Health in July 2020.
- Escalation for cashflow purposes for single items of significant expenditure to Department of Health and from Department of Health to Department of Finance.
- DAC guidance and the derogation to that guidance approved by the Permanent Secretary for Health.

62 At the section of my statement entitled "The Buying Process" I set out the 5 broad approaches adopted by BSO PaLS to procure the goods and equipment necessary to support HSC's response to the Covid pandemic. In summary these were:

- Procure supplies and equipment from existing contractors or already established framework participants. This approach did not involve open

competition, was compliant with the Public Contract Regulations 2015 and followed the provisions set out in the respective contract or framework.

- Proactively approach previous contractors and/or bidders for products which were now in short supply. This did not involve open competition and where necessary Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use.
- Direct contact from companies with offers to supply products. These offers came either directly to BSO PaLS or indirectly via others and were submitted via email. BSO PaLS, along with other Centres of Procurement Expertise in Northern Ireland, participated with Construction Procurement Delivery (part of the NI Department of Finance) in the publication of a call for offers to supply products. An advert to this end was published on the eTendersNI website on 27 March 2020. (See Exhibit KB/18 [INQ000498813]). Where necessary Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use when procuring goods through this route.
- Develop local manufacturing capability to make and supply PPE in Northern Ireland. This work was supported by InvestNI. To procure from local manufacturers Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use.
- Establish a competitive route to procure PPE and related products and services to reduce reliance on Direct Award Contracts. For this purpose, BSO PaLS established a Dynamic Purchasing System (DPS) as catered for under the terms of the Public Contracts Regulations 2015. The DPS was openly advertised on the eTendersNI platform in June 2020 and went live 30 days following publication. (Exhibit KB/18 [INQ000498813]).

63 BSO PaLS published all contract award notices for contracts where BSO/BSO PaLS was the contracting authority. I can advise that nine Contract Award Notices were published outside the prescribed period. Where publication was late this was due to the workload and pressures on the staff involved. I am unable to advise the Inquiry regarding publication of Contract Award Notices for direct award contracts between other HSC

bodies and suppliers as responsibility for publication of those notices lies with the individual HSC body.

- 64 In considering the variation in fit of PPE that might have been necessitated by the different body types, facial shapes, ethnicity or religious observance of staff, I can advise the Inquiry that the demand modelling provided did not at any stage indicate variations of this nature. During the period of my statement the only size variations considered in respect of PPE were for non-sterile examination gloves (bought in small, medium, large and extra-large sizes) and FFP3 masks; in the case of the latter BSO PaLS procured a small volume of masks specifically because they provided a better fit on smaller faces. In the absence of modelled demand figures to the contrary BSO PaLS purchased volumes of products in different sizes reflecting the percentage split of similar products used pre-pandemic. BSO PaLS did procure adjusters to provide more adjustment of fit for Type 2R masks as well as quantities of Type 2R masks in a “tie-back” format. Visors purchased also provided for some adjustment to improve fit as part of the visor design.
- 65 During the pandemic, prior to the introduction of the Dynamic Purchasing System in July 2020, no specific checks were carried out in respect of modern slavery provisions and BSO PaLS relied upon the terms and conditions contained within our Standard Terms and Conditions of Contract in respect of modern slavery. I have provided a copy of our Standard Terms and Conditions applicable at the time. Exhibit KB/6a [INQ000498784]. Following the introduction of the Dynamic Purchasing System modern slavery checks were incorporated into competitions. In November 2021 the Department of Finance (NI) published a Procurement Policy Note “PPN 05/21 Human Rights in Public Procurement” (Exhibit KB 18a [INQ000494698]) and this PPN was applied in subsequent procurements.
- 66 During the pandemic, BSO PaLS Head of Goods and Services Procurement was part of a group formed by Director of Nursing and Quality of the Public Health Agency to consider the introduction of reusable PPE. The group produced a report and I provide this at Exhibit KB/15 [INQ000325800] and Exhibit KB/16 [INQ000498811]. Whilst the report describes the position, I am aware that two of the principle challenges faced were cleansing and disinfection of reusable products and concerns of staff using such

products associated with that issue. I think it is worthy of note that reusable PPE was even less readily available than disposable PPE during the early stages of the pandemic.

- 67 Whilst there was a small number of reusable powered respirator hoods purchased during the pandemic period covered by my statement these were very much exceptions. The evidence relating to the preceding paragraph of my statement provides some insight into why reusable PPE was not procured (see Exhibit KB/15 [INQ000325800] and Exhibit KB/16 [INQ000498811]).
- 68 BSO PaLS made use of Direct Award Contracts as a vehicle to procure PPE up to July 2020 from when a Dynamic Purchasing System was put in place by BSO PaLS for the purpose of procuring PPE and related products/services. The Dynamic Purchasing System was open for use by all public sector bodies in Northern Ireland with approval given for this step by Department of Health on request from BSO. The reason BSO PaLS put this arrangement in place was based on the principle that the Public Contracts Regulations 2015 permit the use of regulation 32.2 (c) “for reasons of extreme urgency brought about by events unforeseeable by the contracting authority” and that once the first surge of the pandemic had subsided further surges were at that point in time foreseeable.

Modelling

- 69 In January 2020 the Department of Health and Social Care (DHSC) established the WN Covid Supply Chain Group and at the inaugural meeting of that group a decision was taken to extend membership of the group to include Northern Ireland, Wales and Scotland. At the inaugural meeting it was identified that “RWC modelling” (reasonable worst-case) was being worked up by NHS England and Public Health England to trigger Pandemic Influenza Preparedness Programme (PIPP) “just in time” in time supply. On 3 February 2020 BSO PaLS first attended the WN Covid Supply Chain Group. At this second meeting the BSO PaLS Assistant Director along with representatives from Wales and Scotland raised the matter of demand modelling being made available on a national basis to inform supply chain planning and associated purchase decisions. The group was informed that this was being considered by NHS England and Public Health

England. A copy of the minutes of this group are provided as evidence at Exhibit KB/17 [INQ000495076]. No demand modelling information was forthcoming through this group prior to its closure at the end of March 2020.

- 70 In respect of PPE, initially BSO PaLS relied on the demand patterns emerging from BSO's warehouses in the period February to March 2020 to inform the purchase volumes required. This initial approach understated demand as it was too early in the pandemic for accurate patterns of demand to be visible. BSO PaLS recognised that this was not a viable way forward and continued to press for modelling information to be made available to inform projected demands for PPE nationally at the WN Covid Supply Chain Cell and through the BSO Director of Operations to HSC Silver Command. HSC Trusts did not provide indications of demand to BSO PaLS.
- 71 Following a request from the Department of Health and Social Care to provide data on PPE demand on 27 March 2020, BSO received modelling information via NI HSC Silver Command, Public Health Agency, Health and Social Care Board and Department of health which set out modelling for hospital-based care across three scenarios. Over the weekend of 28 March 2020 with this demand data colleagues in Department of Health, Public Health Agency, Health and Social Care Board and BSO used the data to predict short-term future PPE demand more accurately in order to respond to the request from DHSC and provide a basis for BSO to purchase PPE. This was further amended following a change in Public Health England guidance on PPE published on 10 April 2020 which increased the predicted demand following inclusion of social care and community needs. This was the most accurate model for demand planning at the time as it reflected healthcare activity rather than product demand trends.
- 72 On the 7 July 2020 BSO PaLS received Reasonable Worst-Case Scenario (RWCS) modelling from the Silver Command Modelling Cell led by the Public Health Agency and chaired by its Director of Nursing and Quality, this modelling approach having been approved by the Rebuild Management Board on 24 June 2020. This modelling assumed that HSC would function as normal as well as dealing with Covid cases, activity figures were based on previous year's patient throughput and they should include a 20% buffer

on modelled PPE demand figures. In reality, actual demand did not reach the levels predicted by the RWCS modelling.

- 73 A further version of the RWCS model was developed in 2021 by the Silver Command Modelling Cell led by PHA, Reasonable Worst-Case Scenario 2 (RWCS2), and this was provided to BSO for inclusion in a paper being presented to the Department of Health Rebuild Management Board in June 2021 and covering a range of matters related to PPE. The paper was presented to that group by the BSO Director of Operations and is provided at Exhibit KB/17a [INQ000498783]. BSO PaLS worked to acquire stock to meet the demand predicted in the Silver Command model from July 2021 onwards. This RWCS2 model was informed by usage data from Trusts and by data on issues of PPE by BSO PaLS. It was developed by an expert seconded to the Public Health Agency (PHA) from the Strategic Investment Board (SIB) and provided a more up-to-date picture than the RWCS model. Despite this model indicating demand lower than that of the initial RWCS model, actual demand from July 2021 did not reach predicted levels. I am unable to comment on why RWCS2 modelling continued to overstate demand.
- 74 No modelling was made available to BSO PaLS for Covid impacted products or equipment. In respect of these areas, purchases were informed by emerging demand patterns for Covid impacted products and end user requirements in respect of equipment. I am not aware of any modelling used to inform decisions on the purchase of equipment such as ventilators though it may have been available to the end users requesting the equipment.
- 75 I have provided a number of items of evidence which show the modelling information provided to BSO PaLS over the period March 2020 to June 2021 to assist in demand planning - these are exhibits KB/17b [INQ000498771], KB/17c [INQ000498773], KB/17d [INQ000498775], KB/17e [INQ000498777], KB/17f [INQ000498778], KB/17g [INQ000498780] and KB/17h [INQ000498782] which relate to the period covered by my statement. I have also included Exhibit KB/17a [INQ000498783] in relation to the second version of reasonable worst-case scenario (RWCS2) which was introduced on 30 June 2021, this item is a copy of a paper approved by the Department of Health Rebuild Management Board the contents of which include the RWCS2 modelling figures.

- 76 BSO did not commission the modelling work and it is suggested that Public Health Agency and Department of Health may be better placed to comment. The first demand figures generated by the Silver Command modelling cell became available to BSO PaLS on 28 March 2020 and these were then provided to procurement teams. These figures were revised again following changes to guidance issued on 10 April 2020, on 7 July 2020 following development of the Reasonable Worst-Case Scenario model and July 2021 following development of the Reasonable Worst-Case Scenario 2 model. These represent the changes to modelling that took place during the period covered by my statement.
- 77 Modelling work was co-ordinated by Department of Health and Public Health Agency through a Silver Command commissioned “modelling cell”.
- 78 As BSO was not leading the modelling cell I am unable to provide details of the specific methods and assumptions used, or which healthcare settings and providers were taken into account.
- 79 I am unable to provide an answer on whether or not the modelling was informed by research on HSC or care sector staff make up. I respectfully suggest that this would be better directed to the HSC Public Health Agency or Department of Health.
- 80 Modelling information provided to BSO PaLS did not cover a range of possible alternative estimates for PPE based on the impact of different controls on reducing the instance of Covid in Northern Ireland.
- 81 It was understood that BSO PaLS would use the Silver Command modelled demand to inform the volumes of PPE purchased and that included contracts for deliveries of PPE over a period of time as well as spot purchases of PPE. When modelling changed, particularly from July 2021 onwards, BSO PaLS sought to renegotiate delivery schedules in an effort to ameliorate a build-up of PPE stock in its PPE warehouses.

The buying process

- 82 In its efforts to procure PPE, Covid related products and medical equipment to support the response to the pandemic, BSO PaLS followed five different approaches.
- 83 The first approach was to seek to procure supplies and equipment from existing contractors or framework participants which offered the lowest risk of fraud as these were known and trusted sources. This was particularly useful in procuring equipment. Where necessary Direct Award Contracts (DACs) were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use.
- 84 The second approach was to approach on a proactive basis previous contractors and bidders for products which were in short supply and again this offered lower risk as suppliers were known and/or had been assessed as part of a procurement process. Where necessary, Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use.
- 85 The third approach involved direct contact from companies with offers to supply products, and these came either directly to BSO PaLS or indirectly via others and were submitted via email. These offers represented the highest risk as sources of supply as most were unknown to BSO PaLS prior to their contact.
- 86 Contacts received were entered in to contact logs and these are provided as see Exhibits KB/04a [INQ000475589], KB/04b [INQ000475590], KB/04c [INQ000498728], KB/04d [INQ000498815], KB/04e [INQ000498816], KB/04f [INQ000498818], KB/04g [INQ000498819], KB/21[INQ000498814] and KB/22 [INQ000498817]. Where necessary, Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use. These contacts were also generated through the publication, by the Department of Finance's Construction and Procurement Delivery organisation (CPD), of a call to supply products to support Northern Ireland's response to the Covid pandemic. This call was advertised via the eTendersNI website on 27 March 2020 and was withdrawn from the website on 14 April 2020, however offers continued to be submitted and to avoid duplication CPD advised that - in agreement with

DoH - these offers were re-directed to the NI Direct landing page “Coronavirus Covid 19 How your business can help?” which went live on 7th April 2020 and was taken down at the end of June 2020. I would respectfully suggest that Department of Finance may be able to provide further details in respect of these web pages.

- 87 The fourth approach was to work with local manufacturers to develop a supply of PPE manufactured in Northern Ireland. This work was supported by InvestNI and BSO PaLS took the view that developing local manufacturing capability and capacity reduced future risk of supply chain disruption at a time when the likely duration of the pandemic was unknown. Goods to be procured were subject to the application of the Product Review Protocol, and contracts were placed conditional on products which were being developed passing that protocol to be acceptable for use in HSC (I have provided sample letters issued to local manufacturers as part of my evidence in this matter) – see KB/25 [INQ000498822] and KB/26 [INQ000498823]. To procure from local manufacturers who had repurposed their facilities to this purpose Direct Award Contracts were used in accordance with the Public Contracts Regulations 2015 and local guidance on their use.
- 88 The fifth and final approach was to develop a compliant route to procure PPE and related products and services to reduce reliance on Direct Award Contracts. To do this BSO PaLS established a Dynamic Purchasing System (DPS) as catered for under the terms of the Public Contracts Regulations 2015. This DPS was published in June 2020 and went live 30 days following publication. A copy of the advert for the DPS is provided as Exhibit KB/18 [INQ000498813].
- 89 In dealing with leads which came to BSO PaLS a standardised approach was applied. Offers were received by email; in the event of a telephone offer being received the company or individual was instructed to make the offer by email. Very often the same offer would arrive from multiple sources as companies would contact BSO PaLS, HSC Trusts and Department of Health simultaneously. Total offers received were circa 2000 and when duplicates were removed the total was reduced to 1279. Two separate logs were maintained of offers - the first was for general PPE offers, of which there were 896 unique offers, and the second was a log of offers of FFP3 of which there were 383 unique offers. These were kept separate in order to direct offers for FFP3 masks quickly

to the team set up to source these products. The same approach was applied to all offers regardless of their source.

- 90 Leads were logged and passed to the product category team established for the product(s) in question. Leads were worked through by buyers largely based on a first-come first-served basis. In the first instance buyers submitted a spreadsheet to the lead for completion (copy of blank Product Information Template provided as Exhibit KB/19 [INQ000498744]. This invited the lead to make their offer and provide company details. The spreadsheet template was accompanied by a list of products and specifications as published by HM Government nationally - see Exhibit—KB/20 [INQ000528857].
- 91 Leads when submitting offers were requested to provide standards certificates and samples to progress to further consideration initially by Medicines Optimisation and Innovation Centre for technical assurance and then by the Infection Prevention Control group for quality assurance testing to determine if the product would be acceptable in use.
- 92 Reflecting the particular challenges in securing supply of products at the early stages of the pandemic, BSO PaLS prioritised offers for products for which there was a particularly acute supply problem for example FFP3 masks were given priority.
- 93 At the outset of the pandemic and throughout the first surge, price was less important than availability when considering decisions on the supply of products to support the response to the pandemic. In making decisions to purchase, the price of the product offered was considered by comparison of the market prices being offered generally for the product concerned at that time rather than by comparing with pre-pandemic pricing. Where a price was extremely high in comparison the purchase decision was escalated to the BSO PaLS Covid Steering Group (Wash-up) for a final decision which was taken based on likelihood of breakdown in supply versus price offered.
- 94 When an offer was received or a contact made from a body offering to supply PPE, equipment, tests or Covid impacted products, BSO PaLS logged the offer in a “contact

log". I have provided the general contact log and the contact log for FFP3 masks as evidence - see Exhibits KB/04a [INQ000475589], KB/04b [INQ000475590], KB/04c [INQ000498728], KB/04d [INQ000498815], KB/04e [INQ000498816], KB/04f [INQ000498818], KB/04g [INQ000498819], KB/21[INQ000498814] and KB/22 [INQ000498817]. The contact logs were maintained centrally within BSO PaLS and made available to buying teams set up by BSO PaLS for the purposes of sourcing products and equipment necessary to support HSC's response to the Covid pandemic.

- 95 Once received by the buying team a formal contact was made by BSO PaLS through email to clarify the nature of the offer, gather details of the offer and request the propose to complete a pro-forma spreadsheet formalising the offer, the terms of the offer and including details of the company concerned. I have provided a copy of this pro-forma spreadsheet as part of my evidence – Exhibit KB/19 [INQ000498744]. This pro-forma included a document containing the specifications of the key products being sought. This document was published by DHSC and I have provided a copy of the document as Exhibit KB/20 [INQ000528857]
- 96 When the contact returned the completed pro-forma, the offer was reviewed to see if it was worthwhile pursuing further, criteria that were considered included availability, volumes offered, type of product, price and terms. If an offer was considered to have potential (in particular in respect of availability, volumes and product type) the contact was asked to provide copies of the standards certificates applicable and samples for testing. Once provided the standards certificates were validated by the Medicines Optimisation and Innovation Centre and if validated the samples were presented to the IPC assurance group for testing for comfort and suitability for use. A fail at either of these stages resulted in the offer being declined. Where a contact did not provide this information / product sample they were not considered further. There were a small number of exceptions to this process:
- Purchase of contracted products from existing contractors to HSC.
 - Purchase of products previously supplied under contract by former contractors to HSC.
 - Purchase of 3M FFP masks from sources confirmed as authorised suppliers by 3M.

- 97 I have separately provided a copy of the Product Review Protocol as evidence of the process followed by BSO PaLS in considering suitability of products offered by contacts this is at Exhibit KB/07 [INQ000325674].
- 98 In instances where the terms of the offer were considered excessive, the Senior Procurement Manager for the buying team who were following up the contact escalated the matter to the BSO PaLS Covid Steering Group (Wash-Up) for consideration. That group then considered the offer in terms of the current supply of product available to HSC through warehouse stocks, planned goods inwards, terms of the offer and any comparative pricing of the same products available to the group. Where the supply position was precarious the group would make the decision to purchase.
- 99 Where the terms of an offer insisted upon a pre-payment in full or in part then any offer of this nature which was accepted included the completion of a "Risk Log" and such offers were signed-off by the Assistant Director Procurement and Logistics and notified to the BSO Director of Finance and Senior Management Team. Where necessary financial approvals were sought from the Department of Health and, if necessary, Department of Finance (such as in the case of the purchase of PPE from China Resource). Copies of the Department of Health circular is provided as evidence (see Exhibit KB/14 [INQ000130406]).
- 100 Whilst a standardised journey was followed for selection and approval of PPE and Covid-related products during the pandemic, there were four significant departures from that process.
- 101 The first departure was the purchase of Type 2R facemasks from NHS Wales which occurred in the early stages of the pandemic. Colleagues in the NHS Wales Shared Services Partnership (NWSSP) indicated that they had secured a volume of Type 2R facemasks, some of which they could offer to HSC for purchase. They advised that the masks had been approved by their Surgical and Medical Testing Laboratories. It was in that context that BSO PaLS agreed to purchase these masks and deployed them to HSC. When they were issued to HSC staff they proved problematic in use, with it proving

difficult to get a close fit due to inflexibility in the bridge piece on the facemasks and were retrospectively reviewed by MOIC and considered to be unfit for use and subsequently withdrawn from use.

- 102 The second departure from the process was the purchase of gloves and facemasks from China Resource, a large Chinese company involved in the export of medical products and pharmaceuticals. In this departure the contract for supply was signed following technical assurance testing of the products by MOIC with quality assurance testing by IPC group taking place whilst the products were in transit to Northern Ireland or immediately upon their receipt. In this instance products were not deployed to HSC staff until both technical assurance testing and quality assurance testing had been carried out by both MOIC and IPC group respectively. No products purchased through the China Resource contract were deemed unsuitable for use in HSC.
- 103 The third departure was regarding the purchase of 3M FFP3 masks. When BSO PaLS validated the source of the 3M masks as an approved distributor of 3M masks (this validation came from 3M themselves) orders were placed without technical or quality assurance testing. The majority of 3M masks purchased came directly from DHSC commencing in January 2021.
- 104 The fourth and final departure from the process was the purchase of PPE from local manufacturing sources (Face visors, Type 2R facemasks and FFP3 Masks). In this instance, contracts were entered into subject to the successful development of a product which met the applicable product standards, passed technical assurance testing by MOIC and passed quality assurance testing by the IPC group. In these instances, no product was purchased and deployed to HSC staff until these requirements were met.
- 105 I have provided two contact logs for consideration by the Inquiry. These logs were introduced in March 2020 and maintained until April 2020 in the case of the general contact log, and April 2021 for FFP3 Masks. I believe that the contents of the logs unaltered cover most of the information required by the Inquiry. These logs are at Exhibits KB/04a [INQ000475589], KB/04b [INQ000475590], KB/04c [INQ000498728], KB/04d [INQ000498815], KB/04e [INQ000498816], KB/04f [INQ000498818], KB/04g

[INQ000498819], KB/21[INQ000498814] and KB/22 [INQ000498817]. “Masks Status of Leads” (Exhibit KB/22 [INQ000498817]). The total number of contacts we estimate to have been circa 2000 however once duplicates have been removed the unique contacts are those that have been captured in these two Logs. The total of such contacts across the two Logs is 1279.

- 106 In order to enhance the quality of the information, a number of columns have been added at the far right of each log (clearly marked as added April 2024). These cover the details of any orders placed as a result of the contact and where no orders were placed the reason for rejection accompanied by a note regarding that rejection where that is necessary.
- 107 In instances where companies have been contacted but no response has been received (generally characterised by “awaiting reply” in the status columns) this has been classified as “offer withdrawn by supplier” in both logs.
- 108 It should be noted that areas of the log are incomplete in some instances, this reflects the operational pressures BSO PaLS staff were under during the period in question.
- 109 It should be noted the details of orders placed does not reflect all orders placed for PPE, Covid related items or medical equipment as it excludes orders placed with companies sourced from within BSO PaLS existing supplier portfolio by BSO PaLS buyers.
- 110 In general, suppliers to HSC, both established and new, fulfilled their contracts successfully. I have provided a table showing incidences of contract termination as part of my evidence submission – see Exhibit KB/23 [INQ000498820]. BSO PaLS staff monitored delivery performance closely and whilst there were instances where deliveries were delayed by a few days a pragmatic approach was taken to accepting those delays. There were instances also where BSO PaLS negotiated delays to deliveries, particularly with local manufacturers of products, in order to manage the available space within their warehouse facilities.

Due diligence

111 In considering the financial risk associated with placing contracts and purchase orders for products during the pandemic, BSO PaLS took into account four factors:

- Trading history between HSC and the company concerned.
- Payment terms – in advance, part in advance or following delivery.
- Size of the company concerned and any history of trading more widely with NHS (where this could be established).
- Review of company records in Companies House (if available).

For instance, a large company with whom HSC had a prior trading history, seeking a large payment in advance (either full or part), with no adverse company record giving cause for concern, would have been considered to be a “medium risk” – an example of this would be an order (HBA1557) placed with Arco Ltd with a 50% advance payment of £2.8m, this order was fully delivered.

112 In circumstances where there was no HSC trading history and payment in advance was requested, and the company was part of a larger group with no issues of concern on record with Companies House, the financial risk would have been considered “High”. An example of such an instance would be an order (HBD21684) placed with Medco with a 50% advance payment of £4.6m, this order was fully delivered.

113 To support the risk assessment, BSO PaLS working with BSO’s Finance Directorate developed a process to follow for instances where a potential supplier was seeking payment in advance, either in full or in part (Stock Pre-Paid Process). I have provided a flow diagram that sets out that process as Exhibit KB/23a [INQ INQ000498751]. The process was also subject to an audit review by BSO’s Internal Audit service which made a number of recommendations which were taken forward by BSO and as evidence I have provided a copy of correspondence to the BSO Governance and Audit Committee including this report – see Exhibit KB/24 [INQ000498753].

114 As part of this Risk Assessment process a “Pre-Paid Stock Order Governance Log” was maintained. This was a spreadsheet which was populated by the buyer responsible for

ordering the goods and the “Stock Pre-Paid Process” set out for buyers how to complete the log. The log also provided definitions of High, Medium and Low risks to assist the buyer in arriving at a risk rating. I have provided the “Pre-Paid Stock Order Governance Log” as Exhibit KB/13a [INQ000498750]:

- 115 BSO PaLS took steps to mitigate risk such as insisting on completing technical assurance assessments and quality assurance assessments in advance of entering contracts, these steps applied to all contracts entered into for PPE. In the case of developing local manufacturing capability, contracts were subject to successful standards certification, technical assessment and quality assurance assessments carried out by HSC along with successful delivery. Copies of two such letters are provided to the Inquiry at Exhibits KB/25 [INQ000498822] and KB/26 [INQ000498823]. It was BSO PaLS’ preference to contract with companies with whom HSC had a trading history or were known to HSC as participating in the wider UK healthcare market. Trading history and expertise of suppliers was only investigated where suppliers were seeking payment in advance either in full or in part as these presented the greatest risk of financial loss.
- 116 Risk assessment of potential contractors took place for those companies seeking payment in advance for goods. I have previously described the steps taken, where such instances occurred, at paragraphs 111 to 114 and these included checks on company standing via Companies House. Prior to the pandemic BSO PaLS would not have routinely considered entering into contracts for goods where advance payment was a requirement although there would have been some exceptions such as subscriptions, software licences and some contracts for maintenance of equipment. The vast majority of formal contracts entered into by HSC organisations were awarded following a competitive tender process using standard terms and conditions for contract, and a PO raised, or payment upon receipt of invoice, following delivery. Those competitions included essential criteria for bidders which reflected the mandatory requirements set out in the Public Contracts Regulations 2015 and selection criteria which were used to determine the company’s likely ability to fulfil the requirements of the contract, these selection criteria are unique to each individual tender process. During the pandemic there was not the opportunity to apply the same competitive approach and contracts were negotiated outside a competitive process up to July 2020 after which new

procurements were conducted through a Dynamic Purchasing System (DPS) established by BSO PaLS for that purpose. This provided for supplier qualification as part of the process to admit a supplier to the DPS and then by using selection criteria to establish a supplier's ability to meet the needs defined within individual competitions run through the DPS.

117 Our due diligence approach with potential suppliers (as indicated in paragraph 59) was more rigorous where the payment terms applicable to the contract required a full or part payment in advance of the delivery of goods, this took the form of an assessment of financial risk associated with the suppliers. Where payment was on HSC's normal trading terms (30 days from receipt of goods) no assessment of financial risk associated with the supplier was carried out as we considered the risk of loss to be minimal or at least no greater than our normal business arrangements. Typically, such contracts were for supply of goods in a single delivery or a small number of deliveries over a short period (weeks). Long term contracts entered into for the supply of PPE, Covid impacted products or equipment were subject to BSO's normal trading terms contained in our Standard Terms and Conditions of Contract for the Supply of Goods i.e. payment within 30 days following receipt of goods. I have provided a copy of our standard terms and conditions of contract and commercial conditions of contract for supplies as part of my evidence pack submitted along with my statement - see Exhibits KB/06a [INQ000498784], KB/06b [INQ000498787], KB/06c [INQ000498788] and KB/06d [INQ000498789].

118 I have provided examples of how risks were classified at paragraphs 111 to 114 above and at paragraph 120 below as well as the worksheet tab "Lists" on the "Pre-Paid Stock Order Governance Log" - Exhibit KB/13a [INQ000498750] - which provides definitions of Low, Medium and High risks. The definition of a "High Risk" classification is "Absence of trading history and pre-payment of significant amount required. There is no trading balance to offset any sums due. - OR - There is irregular current or historic trading but the pre-payment amount is significant relevant to trading balance." These definitions place an emphasis on a pre-payment of "a significant amount". Prior to the pandemic, BSO PaLS acting on behalf of HSC organisations would not routinely accept payment terms outside of those set out in HSC's Standard Terms and Conditions of Contract for

the Supply of Goods. The only instances where pre-payment terms would have been accepted on a routine basis were for items such as subscriptions, software licences or service and maintenance contracts, in these instances the payments were generally very modest in comparison to sums being requested as pre-payments during the pandemic and in the majority of cases HSC had an existing trading history with companies seeking pre-payment which was not always the case during the pandemic.

- 119 Due diligence on product suitability was carried out prior to entering into any contract for PPE during the pandemic and the details of these checks are contained in the Product Review Protocol provided (Exhibit KB/07 [INQ000325674]). Additional due diligence checks were carried out on suppliers only where the supplier was seeking a pre-payment as part of the contract terms. Where equipment was concerned, due diligence, such as ensuring the equipment was fit for purpose, performed to the required standards and the acceptability of the equipment, was carried out by the end-user requesting the equipment within individual HSC Trusts. BSO PaLS did not have any role in that process.
- 120 The same approach was carried out for all contracts where the supplier was seeking a payment in advance. The definitions used by BSO PaLS for Low, Medium and High risks are as follows:
- Low: There is a regular current trading history providing a mechanism for recovery of sums due if necessary providing a high level of confidence there will be no loss to BSO. The pre-payment amount is relatively small relative to trading history.
 - Medium: There is irregular current or historic trading providing a limited mechanism for recovery of sums due and the prepayment amount is relatively modest in absolute terms.
 - High: Absence of trading history and pre-payment of significant amount required. There is no trading balance to offset any sums due. - OR - There is irregular current or historic trading but the pre-payment amount is significant relevant to trading balance.

- 121 Prior to entering into a contract BSO PaLS followed its Product Review Protocol and assessed the product being considered to determine its technical and quality acceptability. Only once that had been established would a contract be entered into. Where this arose BSO PaLS did not carry out due diligence checks on the suppliers concerned as payment terms were under HSC's standard terms and conditions of contract which require payment 30 days after receipt of goods and submission of a valid invoice. We took the view that these terms and conditions offered sufficient protection to HSC and BSO in the event that the supplier failed to deliver the required goods.
- 122 Due diligence was carried out on all direct award contracts where BSO/BSO PaLS was the contracting authority, as a minimum this related to technical assurance and product acceptability as set out in the Product Review Protocol (Exhibit KB/07 [INQ000325674]) where a supplier was seeking payment in advance either in whole or in part the due diligence was extended to include a financial risk assessment. I am unable to confirm if this was the case where other HSC organisations entered into Direct Award Contracts.
- 123 All direct award contracts entered into by BSO/BSO PaLS were subject to due diligence checks on product acceptability as a minimum. I am unable to confirm if this was the case where other HSC organisations entered into Direct Award Contracts.
- 124 Financial risk assessment (as part of our due diligence checks of companies) was only carried out where a supplier was seeking a pre-payment and the goods offered had passed our technical and quality assurance checks. In total seven contracts awarded were subject to financial risk assessment as part of our due diligence. I have provided details of these companies, the contract value, product type and product volumes as part of my evidence at Exhibit KB/27 [INQ000498824]. This is as an extract from BSO PaLS "Pre-Payment Stock Order Governance Log" which has also been provided as Exhibit KB/13a [INQ000498750]
- 125 Once it had been established that the goods being offered by a supplier were acceptable to HSC and where the supplier was seeking a payment in advance, either in full or in part, BSO PaLS carried out a number of due diligence checks to inform a risk assessment. First of all, a review of the trading history that company had with HSC,

secondly the size of the company concerned and whether it had any trading history with the wider NHS (where that could be established) and thirdly a review of the company records held at Companies House if such records were available.

- 126 Where a pre-payment was sought and approved, delivery of the goods was monitored to ensure that goods were delivered in accordance with the terms of the contract. Upon receipt of the goods a sample was provided to MOIC to verify that the goods supplied matched those assessed as part of the due diligence checks on product suitability.
- 127 BSO PaLS provided staff with a process and flow diagram to follow when pre-payment was being sought by a potential supplier. The process was designed in conjunction with BSO Finance colleagues and reviewed by BSO's Internal Audit service. All pre-payments had to be approved by the Assistant Director – Procurement and Logistics and notified at regular intervals to BSO's senior management team through the Director of Finance. The staff involved in sourcing PPE, Covid-related items and equipment were suitably experienced and worked under the close supervision and support of Senior Procurement Managers (Band 8A) who took a "hands on" approach. Senior Procurement Managers were supported by a Divisional Head of Procurement (Band 8B) and the Head of Goods and Services Procurement (Band 8C). The Head of Goods and Services Procurement and Divisional Head of Procurement were part of the BSO PaLS Covid Steering Group (also known as "wash-up" group) who met initially daily to track progress on securing the necessary goods and equipment, at this meeting pre-payment requests were discussed to consider if need for supply outweighed the risk associated with pre-payment. There were clear paths for escalation for staff and support at all levels. To inform the Inquiry I have provided copies of training briefings provided to staff as part of my evidence at Exhibits KB/27a [INQ000498735], KB/27b [INQ000498738], KB/27c [INQ000498743], KB/27d [INQ000498745], KB/27e [INQ000498746], KB/27f [INQ000498747], KB/27g [INQ000498748], KB/27h [INQ000498749], KB/27i [INQ000498736], KB/27j [INQ000498737] and KB/19 [INQ000498744].

Conflicts of interest

- 128 Decision making on the placement of contracts for the supply of PPE, Covid related items and equipment did not rest with one single person and was dependent upon a number of factors, for example technical assessment, quality assurance, end user acceptance, product suitability, compatibility and availability. Decisions to order goods taken by BSO PaLS were taken by staff at Band 7 and above based and those staff are required to complete a conflict of interest declaration each year (FRS8 Related Party Transaction Declaration). BSO PaLS did not seek declarations of interest from other staff involved in the selection and assessment process. Therefore, no conflicts of interest were identified; had they been then any officer that had such a conflict would have been removed from the decision-making process if that conflict was of concern. A conflict of interest would be defined as where an individual involved in the decision-making process, their relative or friend might be likely to benefit personally by the award of a contract to a particular supplier.
- 129 Whilst BSO PaLS received potential leads from elected politicians and senior civil servants these tended to be on a “pass through” basis, that is to say the individuals concerned received an approach and passed it on to BSO PaLS. I have set out elsewhere in my statement how BSO PaLS managed the process associated with contact leads (see statement section entitled “The Buying Process” and the steps associated with product acceptance testing that were followed before a contract with a supplier was entered into which ensured that primacy was given to products meeting requirements prior to entering into a contract rather than to the source of that contact.) Whilst I have advised that BSO PaLS did not seek to identify conflicts of interest, I believe it is clear from the details provided as part of my statement that no preference was given to leads based on who referred them to BSO PaLS, and that there were sufficient separate steps to the selection process for goods to ensure that where a conflict could have existed an individual would have been unable to exert sufficient pressure to influence any single decision.
- 130 I am not aware of any contracts being awarded where a conflict of interest had been identified.

- 131 I have provided copies of the Conflict of Interest forms used pre- and post-pandemic to consider conflicts of interest during a tender competition as part of my evidence as Exhibits KB/28 [INQ000498825], KB/29 [INQ000498828] and KB/30 [INQ000498830]. During the pandemic for the period up to and including July 2020 competitions for pandemic related goods and equipment were not being conducted and these forms were not used. Elsewhere in my statement I have described the multiple layers of assessment that offers for PPE went through with each layer of assessment being carried out by a different organisation and/or group of experts. These layers of assessment and separation of duties provided a protection to HSC in respect of a conflict of interest arising and the potential for that individual to unduly influence a purchasing decision.
- 132 During the period between March 2020 and July 2020, BSO PaLS received a number of contacts which were passed to BSO PaLS by members of the NI Executive (in particular the Health Minister) and/or senior civil servants. These contacts followed the same journey as any contact received and I have set this journey out elsewhere in my statement. BSO PaLS did not operate any preferential treatment for contact leads received as a result of the source of those leads

Technical Assurance and testing

- 133 The Covid-19 pandemic caused significant disruption to supply chains worldwide as demand for PPE, equipment and related products to support a healthcare response to the pandemic rose exponentially. Subsequently this led to shortages of products, in particular PPE, and as a result the need for BSO PaLS to spot-purchase products in the short-term to meet initial demand. As a result of this short-term step, BSO PaLS was considering procuring products that HSC was unfamiliar with and to reduce resistance from staff (often due to staff being fearful of the unfamiliar) BSO PaLS found there was a need to carry out technical and user assessment of products in a very compressed timeframe.
- 134 Initially at the request of the Department of Health Chief Pharmaceutical Officer on the 24 March 2020, BSO PaLS engaged with the Medicines Optimisation and Innovation Centre (MOIC) which is a body hosted by the Northern Health and Social Care Trust but

operating on a regional basis to support delivery of medicines optimisation. It has significant experience in the assessment of products and has expertise in assessing product specifications. The purpose of the engagement was to have expert technical assistance in assessing the specifications of products being offered as PPE against the required standards and to validate standards certifications claimed to be held for those products.

- 135 Whilst MOIC brought a technical assurance of products and BSO PaLS provided a commercial assessment it was of concern that unfamiliar products purchased might still be rejected as unfit for purpose once deployed to frontline staff; this had been experienced following the procurement of Type 2R facemasks from NHS Wales. To avoid recurrence, nominations were sought from the Infection Prevention Control (IPC) Cell, chaired by the Public Health Agency Director of Nursing and Quality, to form a user quality assurance group that would assess products for their clinical suitability, wear-ability and usability – a product advice team. Whilst most of the work of the user quality assurance group was focussed on the assessment of new products, feedback on products in use was occasionally provided. I cannot advise if this was the result of the members of the group formally seeking feedback from staff or based on ad-hoc comments received from staff in the course of their business. Where feedback was received from the Infection Prevention Control Cell regarding the suitability of products, BSO PaLS endeavoured to incorporate that into future purchases. The engagement with MOIC and the IPC Cell at this point was informal.
- 136 Following a rapid audit review of PPE commissioned by Department of Health in April 2020, and in addressing action 5 of the review, the PHA Director of Nursing and Quality advised the formalisation of the product assessment arrangements in place. As a result of this formalisation BSO PaLS drafted the Product Review Protocol which was formally signed off in July 2020 albeit it had been operating for some months prior to the formal sign-off.
- 137 The operation of the Product Review Protocol is set out in detail within the protocol and a copy of the protocol is available in evidence at Exhibit KB/07 [INQ000325674]. As a result of the introduction of this protocol, BSO PaLS was able to procure products that

had been validated from both a technical and practical perspective which provided assurance to those using those products of their veracity. The introduction of the Product Review Protocol significantly reduced the incidence of product rejection by frontline users.

- 138 The Product Review Protocol set out the process for assuring products required to support frontline staff in dealing with the Covid pandemic, the focus on the protocol was on PPE in particular. It was developed by BSO PaLS Head of Goods and Services Procurement in conjunction with the Director of MOIC and members of the Infection Prevention Control Cell (IPC). The Protocol was used as part of the procurement process followed by BSO PaLS procurement teams and ensured that goods being considered for purchase met the required technical standards and would be suitable for use when deployed to the frontline. This meant that goods would not be purchased without them having been approved by both MOIC and the IPC cell therefore guaranteeing their fitness for purpose. The Protocol was formally published in July 2020 but was in use for some weeks before that (beginning in May 2020) as we recognised that any change to the final draft of protocol was unlikely to alter the key elements of technical assurance and user assurance. I have provided a copy of the Product Review Protocol as Exhibit KB/07 [INQ000325674] and a copy of the IPC Product Assessment Form at Exhibit KB/31 [INQ000498831], the Product Review Protocol contains copies of versions of this form for other items.
- 139 The technical assurance was carried out by the Medicines Optimisation Innovation Centre using qualified pharmacists with experience in product assessment.
- 140 This is addressed in the Product Review Protocol (Exhibit KB/07 [INQ000325674]) at the section entitled "Medicines Optimisation Innovation Centre (MOIC) Technical Assessments" and at Appendix 3 of the protocol. I would respectfully suggest that further information on the detail of the approaches taken should be sought from the Northern Health and Social Care Trust Medicines Optimisation Innovation Centre (MOIC) itself, as BSO has no knowledge of how this work was carried out.

- 141 The staff engaged in carrying out the technical assurance of products at MOIC were entirely independent of BSO, BSO PaLS and the IPC Cell. They are employed by Northern Health and Social Care Trust. The Infection Prevention Control (IPC) staff involved in the product assessments for usability are employed by each HSC Trust and the PHA and as such are entirely independent of BSO and BSO PaLS.
- 142 The members involved in the technical assurance at MOIC were fully qualified pharmacists and those involved as part of the IPC Cell were fully qualified clinical staff engaged in the infection prevention and control specialism. All staff involved in the assessments were experienced professionals. Further details of the qualifications of staff may be available through individual HSC Trusts as BSO does not hold such information.
- 143 Testing of products was carried out prior to a contract being placed for the supply of the goods. Technical assessment of the products against specifications, standards certification and validation of certificates submitted was carried out by MOIC, products had to pass this assessment to be considered for purchase. Assessment of the product from a usability and wear-ability point of view was carried out by the IPC product advice group, this assessment was done by putting the product to use for the purpose for which it was designed by testing it when being worn, product assessment sheets were completed as part of this process. The Product Review Protocol provides details on the testing processes to be carried out. Beyond the information contained in the Product Review Protocol regarding the technical assurance testing, BSO is unable to provide further detail on the technical assurance testing carried out by MOIC and any further detail required should be sought from MOIC via Northern HSC Trust.
- 144 The introduction of the Product Review Protocol, referred to in detail elsewhere in my statement, prevented the purchase of products that were unsuitable. However, prior to the introduction of the Protocol a range of Type 2R facemasks purchased from NHS Wales were rejected by staff supported by Infection Prevention Control professionals when deployed to the frontline. The volume of masks involved was 4,503,240 single masks which was 0.31% of all PPE purchased during the period of my statement, and 2% of facemasks purchased during that period. In respect of these facemasks, BSO PaLS was advised by National Wales Shared Services Partnership Procurement Service

that the masks had been assessed by the NHS Wales SMTL Laboratory and met required standards.

- 145 BSO did not purchase any ventilators for itself.
- 146 No PCR or LFT tests purchased by BSO PaLS were rejected for use. I am aware that testing analysers supplied to HSC Trusts as part of the national Moonshot Project proved troublesome but cannot provide any details on this matter as their supply lay outside the responsibility of BSO and BSO PaLS.
- 147 The process followed by HSC to procure PPE and Covid-impacted products required that products being considered for purchase had to pass the product assessment process set out in the Product Review Protocol before any contract would be entered into. The exception to this was where local manufacturers were developing products to meet HSC's needs and, in these cases, contracts were awarded on the basis that the products developed must pass the Product Review Protocol as part of the contractual obligations on the supplier.
- 148 Prior to the introduction of the protocol, BSO PaLS had one instance where goods purchased in good faith were rejected. This was the purchase of Type 2R facemasks from NHS Wales and these were withdrawn from use following rejection for use in high-risk areas. These products were not subject to technical assessment by MOIC as NHS Wales Shared Services Partnership – Procurement Service had advised the product had been approved by their Surgical Materials Testing Laboratory (SMTL) which is a part of NHS Wales. In this instance the total number of facemasks rejected was 4,503,240 which represents 2% percent of the total number of facemasks purchased during the period covered by my statement.
- 149 I have provided a table at Exhibit KB/32 [INQ000498832] entitled "PPE Rejected" which provides details of rejected lines as a percentage of overall purchases during the period of my statement.

- 150 Where PPE that had already been purchased was subsequently rejected for use in high-risk areas by HSC and the goods conformed to required standards, those goods were deployed to areas of lower risk or donated to charity to support work elsewhere; in the latter instances, BSO wrote off this stock prior to donation.
- 151 I have provided evidence at Exhibit KB/33 [INQ000498833] which is a table setting out the cost of PPE considered unfit for use and the cost of healthcare supplies (Covid-impacted products) considered unfit for use. This table shows those figures against BSO's overall expenditure on these products during the period of my statement.
- 152 In order to explain the nature of the impact of any rejection of PPE purchased I think it is important that I outline to the Inquiry the approach adopted by BSO PaLS and the Department of Health to the deployment of Pandemic Influenza Preparedness Programme (PIPP) stockpiles of PPE. Rather than release PIPP stockpiles at the outset of the pandemic, DoH and BSO PaLS sought to manage their release alongside the procurement of PPE stocks. This meant that PIPP stock was released at key points during the early stages of the pandemic (principally the build up to and during the first surge in Northern Ireland) where it was evident that a breakdown in supply of PPE might occur. This resulted in two impacts – firstly PIPP stock was not dramatically depleted during the first weeks of the pandemic and secondly that the impact of breakdowns in supply was minimised by utilising PIPP stocks to bridge any shortage.
- 153 Turning to the impact of the rejection of products failing the product assessments, where products failing assessments caused a potential breakdown in supply, BSO PaLS sought release of sufficient stock from the PIPP stockpile to bridge any period where supply was likely to be impacted.
- 154 The purchase of facemasks from NHS Wales was occasioned when NHS Wales advised it had secured a substantial supply of Type 2R facemasks and was in a position to offer a volume of those masks to HSC/BSO PaLS. NHS Wales advised that the masks had been assessed by Surgical Materials Testing Laboratory prior to purchase and that they met the required standards. This was the basis on which BSO PaLS purchased the masks.

- 155 This purchase took place in April 2020 prior to the introduction of the Product Review Protocol. All subsequent purchases followed the Product Review Protocol once it was in place informally during May 2020 and formally from July 2020.
- 156 It is my understanding that all purchases of PPE and other key healthcare equipment and supplies were in accordance with the extant guidance and specifications applicable in the NHS/HSC.
- 157 The NHS position that FFP3 masks were required rather than FFP2 masks made no significant difference in the sourcing of respirator masks at the time as both levels of mask were in short supply. Of greater significant in the sourcing of FFP3 masks was securing an ongoing supply of masks which had good or high fit-testing pass rates.
- 158 Considering the impact of changing IPC guidance during the pandemic, this did not really impact upon the specification of the goods to be procured but was more impactful on the volumes of those products which had to be sourced - in particular those changes to guidance which were announced in early April 2020 extending the use of PPE to social care settings. In subsequent modelling developed by HSC, community settings accounted for 60% of the level 1 PPE (aprons, gloves, Type 2R facemasks and eye protection (if appropriate)) which gives some sense of the impact of a change of guidance extending use of PPE to social care settings.
- 159 At the outset of the pandemic and for much of the period covered by my statement, demand for PPE and healthcare equipment and supplies to support the HSC response to the pandemic remained high, particularly demand for PPE. Subsequently prices for PPE were considerably higher than before the pandemic across all lines of PPE. This was an impact of demand rather than changes to technical specifications; therefore, it was our experience that changes in guidance that expanded the breadth of use of PPE had greater impact than any change to technical specifications.
- 160 I am not aware of any changes in technical specifications during the period of my statement that rendered products purchased by BSO PaLS during the period of my statement unusable.

Identification and handling of Fraud and/or Suspicious Opportunities

- 161 BSO PaLS is an accredited Centre of Procurement Expertise under the Northern Ireland Public Procurement Policy and has well developed processes in place to support safe and effective public procurement.
- 162 Prior to the Covid pandemic, during the period 2009 to 1 January 2020, BSO PaLS relied on the use of competition to award the majority of contracts for goods and services procured on behalf of HSC organisations. Approximately 91.5% of expenditure was subject to open competitive procurement processes and 80% of procurement transactions were conducted from HSC's online catalogue and e-procurement system managed by BSO PaLS. All products and services listed in the online catalogue were selected following a competitive procurement process, as per the Procurement Contracts Regulations 2015, and which resulted in the award of a contract or framework agreement. The systems in place are designed to prevent fraud occurring by having a clear separation of duties between the user, the procurer and the paymaster. Separation of duties took place at a number of points in the procurement process, for example BSO PaLS operates a "two-envelope" system for tender assessment with a qualitative envelope covering the qualitative criteria for evaluation and a commercial envelope covering the financial criteria for evaluation. Each of these "envelopes" were evaluated and scored separately by different teams with a consensus meeting held to confirm the successful tenderer. A further separation of duties took place at the point of ordering of goods - each order requires approval by a line manager of the officer ordering the goods and this approval is escalated automatically by the e-procurement system to a manager with the appropriate level of authority dependent on value or in some instances role e.g. IT equipment may need approval from an authorised IT professional. Access to these "envelopes" is electronically controlled using the e-tendering system "eTendersNI" procured centrally by Construction Procurement Delivery (CPD) on behalf of all Centres of Procurement Expertise. Guidance is also in place in Northern Ireland regarding the handling of abnormally low tenders. BSO PaLS has since 2012 actively monitored expenditure against all contracts awarded to ensure that excessive expenditure is not occurring without explanation. Suppliers bidding for contracts must meet a set of mandatory criteria as set out in the Public Contracts Regulations 2015 and a set of

selection criteria unique to each competition that establishes their capacity to meet the needs of the tender. Additionally, bidders complete a declaration of their bona fides in submitting a bid. HSC officers participating in tender competition are required to complete a two-stage declaration. First, they are required to make a declaration of objectivity in which they agree to remain objective throughout the process and must declare any potential interest that might impact that position and then make a second declaration once bids are received where they must identify any conflict of interest with a bidder. To my knowledge there have been no instances of fraudulent activity by a supplier based on misrepresentation during this period.

163 During the period of the pandemic covered by my statement, BSO PaLS had two different approaches to procurement. The first was in place up to July 2020 and involved the use of Direct Award Contracts (DACs) to secure sufficient supply of suitable PPE, equipment and Covid-related goods. The second approach was in place from July 2020 and was the establishment of a Dynamic Purchasing System in accordance with the Public Contracts Regulations 2015. This latter arrangement operates in a similar fashion to the arrangements in place prior to the Covid pandemic and removed the need for Direct Award Contracts for PPE and Covid related and Direct Award Contracts by providing a vehicle for competitions to be run quickly and easily to procure PPE in accordance with the Public Contracts Regulations 2015. In respect of equipment, most was purchased from established frameworks at this point with only 2 Direct Award Contracts being placed after July 2020.

164 The processes in place to prevent fraud during the period January 2020 to July 2020 focussed on two particular areas: supply of fake FFP3 masks and risk management of advance payments. In respect of the checks to prevent supply of fake FFP3 masks, BSO PaLS was aware that there was a high risk of fake 3M FFP3 masks being offered to organisations; therefore, as part of its assessment of unsolicited offers of FFP3 masks where the masks being offered were presented as 3M products, BSO PaLS sought to confirm the veracity of the offer by engaging with 3M directly to establish if the potential supplier was an accredited distributor of 3M PPE. Where it was established that the supplier was not an accredited distributor, the contact was not pursued any further. Some checks on leads for other mask brands revealed potential fraud where

documentation submitted could not be validated with the accrediting body and in such instances BSO PaLS did not proceed to place any contract with those suppliers. Details of the instances of such offers are contained in the document “FFP Masks – Status of Leads 29-09-20” provided as Exhibit KB/22 [INQ000498817].

- 165 The second area related to the risk management of pre-payments to suppliers for goods. I have set out these arrangements previously in my statement at paragraphs 111 to 127 along with the additional checks carried out. Details of these individual “high risk” contracts are provided in the evidence entitled “Pre-Paid Stock Order Governance Log” provided at Exhibit KB/13a [INQ000498750].
- 166 In respect of counter fraud checks carried out in the period from 29 June 2022 to date, post-pandemic BSO PaLS has reverted to the arrangements in place pre-pandemic to reduce the potential for fraud within HSC procurement. These are set out earlier in this section of my statement at paragraph 162.
- 167 I have provided as evidence a document “FFP3 Leads Fraud Failure at Exhibit KB/33a [INQ000498770] which sets out the details of the offers which BSO PaLS considered to be suspicious. As there was no substantial evidence that the actions of these companies were fraudulent BSO did not refer any of the companies listed in this evidence item to the Police Service of Northern Ireland for formal investigation.
- 168 BSO made no referrals to the PSNI of suspicious offers made to HSC where BSO had not entered into a contract with that company nor suffered any loss.
- 169 In considering the extent of any losses which BSO has incurred as a result of possible fraudulent activity in the supply of PPE, healthcare equipment and Covid related items, I can advise the Inquiry that there has been only one contract where BSO suffered financial loss and resulted in referral to the PSNI. This contract was with a company called **Company E** and was for the supply of Type 2R facemasks. The sample products supplied by **Company E** were tested and accepted through the Product Review Protocol and **Company E** sought a payment of 50% of the value of the contract in advance. The sum of \$1,056,250 was paid in advance and the contract was rated as “high risk” in

accordance with the process developed to help manage pre-payments. However, the products which were supplied to fulfil this contract were not those presented as samples for testing and were rejected at [Company E] third party logistics provider's warehouse in Northern Ireland before delivery to BSO PaLS' warehouse. Subsequently BSO PaLS sought to recover the pre-payment from [Company E] and following repeated attempts to make contact BSO has taken a civil case seeking a judgement for breach of contract. To date no money has been returned by [Company E] BSO referred [Company E] to the PSNI for possible fraud following discussion with BSO's Counter Fraud and Probity Unit. I do not believe that the PSNI proceeded with an investigation as I understand they considered this to be a breach of contract and therefore a civil matter.

- 170 The total sum set aside as provision for loss by BSO as referred to in the previous paragraph to date is \$1,056,250 which is equivalent to £795,548.69 as at 21 May 2024.
- 171 In considering lessons learned I believe that it would be helpful if the Northern Ireland Executive developed guidance for Centres of Procurement Expertise in preventing fraud in times of challenging supply conditions.

Total spend and contract management

- 172 Contracts awarded by BSO PaLS during the pandemic were awarded under the Standard Terms and Conditions of Contract and Commercial Conditions of Contract for Supplies for HSC and I have provided a copy of these terms and conditions Exhibits KB/06a [INQ000498784], KB/06b [INQ000498787], KB/06c [INQ000498788] and KB/06d [INQ000498789]. These terms and conditions were published by Construction Procurement Delivery (CPD) and BSO PaLS introduced their use in 2014/15. The only variation to those terms agreed was where payment in advance was required by the supplier (either in full or in part) and I have dealt with how this was managed elsewhere in my statement.
- 173 The terms and conditions are comprehensive and provide for default, refunds in the event of default, require the supplier to bear responsibility for the goods supplied meeting the specifications, provisions for late delivery of goods, indemnity of the Client in

the event of fraudulent misrepresentation, provisions for variation of the contract in terms of the volume of goods to be supplied albeit this leans more towards increasing rather than decreasing volumes, termination of contract for default, performance and contains a “break clause” permitting termination by the Client as well as provision for cancellation of orders or any part of orders remaining undelivered without breach of contract. The terms and conditions also provided for variation of any part the contract by the Client albeit such variation cannot be unilaterally applied by the Client and where variations cannot be agreed terms and conditions provide for the application of a dispute resolution process.

174 During the period of my statement BSO PaLS encountered a number of problems with contracts particularly these spanned two broad areas:

- Delivery – failure to supply, late delivery and Client requested delays to delivery.
- Specification – goods supplied not as submitted for assessment.

175 In respect of failure to supply, this was dealt with by termination of contract and recovery of any sums already paid. There was only one instance where recovery of sums paid was required and this was successfully achieved. In this particular instance, BSO PaLS was in frequent contact with the supplier regarding delivery and when it became apparent that no firm delivery date for the goods could be provided the contract was terminated by mutual agreement and monies paid to the supplier were returned in full.

176 Where late delivery was concerned, this was closely managed by both procurement and stock management teams in order to prevent late delivery having an adverse impact on availability of goods to HSC organisations. Where PPE was concerned, any areas of shortage identified were bridged by release of stock from the PIPP stockpile. I have described elsewhere in my statement (paragraph 152) how the PIPP stockpile was managed by BSO PaLS to bridge any possible breakdown in supply. BSO did not apply any penalties to suppliers where late delivery was concerned.

177 On a number of occasions BSO PaLS, as the Client, sought to re-negotiate delivery schedules for goods. This occurred later in the pandemic and was used to manage warehouse capacity and mitigate risk of obsolescence of stock already held.

- 178 The second area of performance was “Specification” and this was where goods supplied were not to the standard previously agreed. There was only one particular instance where this occurred and the goods were intercepted before delivery took place, were reviewed by MOIC to confirm suitability and were rejected as not to specification. This instance involved a 50% prepayment to the supplier and BSO has pursued recovery of these monies through the court system. The company concerned was called **Company E** and this instance is referred to elsewhere in my statement in greater detail.
- 179 In respect of monies recouped by BSO PaLS from contractors I have provided a table setting out the instances where monies were paid in advance and contracts were terminated requiring BSO to seek to recover monies paid. This is provided at Exhibit KB/34 [INQ000498834] entitled “Monies Recovered from Contractors”.
- 180 Once a contract/purchase order had been placed, BSO PaLS did not have a formal process to monitor compliance with contract terms; however, once the Product Review Protocol was introduced upon delivery of items of PPE, BSO PaLS warehouses provided samples of the product delivered to MOIC to confirm that they matched the samples previously approved. Where delivery of product was concerned, BSO PaLS staff monitored delivery dates closely both in the procurement teams and in the warehouse stock management team. Contractors were regularly contacted to confirm delivery was on target or expedite delivery where it was late. Persistent delays resulted in escalation to more senior personnel including the Assistant Director – PaLS, if necessary.
- 181 I am unable to confirm how HSC Trusts monitored compliance or enforced breaches of contract where goods were being delivered directly to their premises and the contract was not between BSO and the supplier.
- 182 I have provided evidence entitled “Total Spend on PPE” at Exhibit KB/35 [INQ000498835] which details the total volume of PPE purchased during the period of my statement and the total value associated with those items. BSO and BSO PaLS did not purchase ventilators but facilitated the purchase of ventilators by HSC Trusts as part

of our normal service level agreement with those HSC bodies (Exhibit KB/03 [INQ000498801]).

- 183 In respect of PCR and LFT tests these were procured nationally. HSC Trusts received an allocation of PCR tests which were supplied directly to their laboratory premises and BSO received LFT tests which were stored and supplied to a range of HSC and non-HSC organisations. These were also free of charge. I have provided evidence entitled “Total LFT Tests” at Exhibit KB/36 [INQ000498836] which shows the volume of tests ordered by BSO PaLS during the period of my statement.
- 184 In order to inform the Inquiry regarding the impact of the pandemic on the prices of PPE I have provided a copy of a table taken from the NIAO Report “The COVID-19 pandemic: Supply and procurement of Personal Protective Equipment to local healthcare provider” as evidence at Exhibit KB/02 [INQ000281185].
- 185 PCR Tests and LFT tests developed specifically to test for Covid were procured nationally and BSO PaLS had no visibility of the pricing of these tests therefore I am unable to comment on pricing in respect of these products.
- 186 I have provided details on contract terminations as evidence at Exhibit KB/23 [INQ000498820].
- 187 In respect of PCR and LFT tests, BSO PaLS did not award any contracts for these items during the pandemic. Any tests procured outside the national arrangements were procured through the HSC regional contract for laboratory equipment and consumables awarded by BSO PaLS on behalf of HSC Trusts.
- 188 I am not aware of BSO awarding any contracts to “intermediaries”. The healthcare market in Northern Ireland is serviced by many companies who are agents, representatives and distributors for international brands, and orders are placed and contracts entered in to with these companies for the supply of individual products in respect of which these companies have rights to supply in this jurisdiction. In many

instances, contracts were placed with these companies as would normally be the case in procuring goods for use by HSC.

- 189 In my statement I have advised that in the early stages of the pandemic when considering purchasing products, greater weight was given to the availability of the product over the price of the product in order to ensure the availability of goods and equipment to support delivery of frontline health and social care services. Buyers were formed into small teams focussing on specific PPE products and BSO PaLS capital equipment procurement team handled the procurement of equipment. Operating in this way meant buyers were familiar with the variability of pricing being offered and were therefore able to compare prices. Decisions to purchase goods were made a senior level at Senior Procurement Manager level (Band 8A) or above. Where a Senior Procurement Manager was concerned about the level of price being offered this was referred to the BSO PaLS Covid Steering Group (also known as the “wash-up”) which met each evening during the period of significant price instability for a final decision. In reaching a decision the steering group considered the price offered in the context of the current and future supply position and made an informed decision to purchase or not purchase based on ensuring continuity of supply to frontline care. Therefore, to summarise, the level of price increase tolerated was dependent upon the supply position at that point in time. To assist the Inquiry, I have provided a table as evidence showing the comparative prices for PPE pre-pandemic alongside an average of the prices paid during the period covered by my statement – see Exhibit KB/37 [INQ000498837].
- 190 Cognisant of the potential for price gouging that the pandemic presented, BSO PaLS responded to a request from Competition and Markets Authority (CMA) for details where it was suspected that price-gouging and excessive price increases were taking place. This covered all types of PPE required to protect against Covid infection. I have provided a copy of the details submitted to the CMA as part of my evidence at Exhibit KB/38 [INQ000498838].
- 191 When procuring PPE, Covid impacted products and equipment value for money was always considered. I have previously referred in my statement to the heavy weighting given to availability of goods when purchase decisions were made during the early

stages of the pandemic. This was particularly the case between January 2020 and July 2020. No specific guides or tools were available to BSO PaLS or its staff during that period and purchase decisions made relied on the experience of those officers involved in making such decisions. From July 2020 onwards BSO PaLS used a Dynamic Purchasing System (DPS) established for the purpose of procuring PPE and related items. This system relied on a competitive process to drive value for money and award criteria were applied in the competitive process in accordance with the provisions of the DPS in order to ensure value for money. I have provided a copy of the competition process set out in the DPS as part of my evidence at exhibits KB/09 [INQ000498804], KB/10 [INQ000498805] and KB/11 [INQ000498806] I have also provided as evidence an example of a Tender Evaluation Methodology and Marking Scheme applicable to a competition run across the DPS during the period covered by my statement (Exhibit KB/12 [INQ000498807]).

Structure and contents of the direct award contracts

- 192 All direct award contracts where BSO was a party to the contract were made on HSC standard terms and conditions, these were only varied where contractors were seeking payment in advance (either in full or in part) as that is a departure from those terms. All direct award contracts awarded by BSO PaLS on behalf of another HSC body were on HSC standard terms and conditions of contract. Application of contract terms was reinforced in all purchase orders which stated that those terms applied.
- 193 One contract which BSO PaLS was involved in putting in place, but was not the Centre of Procurement Expertise responsible, was the contract between Department of Health and China Resources. In respect of that direct award contract, the Department of Health was advised by Construction Procurement Delivery (CPD) who act as the Centre of Procurement Expertise for Government Departments in Northern Ireland. I am therefore not in a position to comment further on the terms and conditions applicable to that contract.
- 194 As I stated previously in my statement at paragraphs 172 and 173, and restate for the purposes of this section, the terms and conditions are comprehensive and provide for

default, refunds in the event of default, require the supplier to bear responsibility for the goods supplied meeting the specifications, provisions for late delivery of goods, indemnity of the Client in the event of fraudulent misrepresentation, provisions for variation of the contract in terms of the volume of goods to be supplied albeit this leans more towards increasing rather than decreasing volumes, termination of contract for default, performance and contains a “break clause” permitting termination by the Client as well as provision for cancellation of orders or any part of orders remaining undelivered without breach of contract. The terms and conditions also provided for variation of any part the contract by the Client albeit such variation cannot be unilaterally applied by the Client and where variations cannot be agreed terms and condition provide for the application of a dispute resolution process.

- 195 I have provided as part of my evidence copies of the HSC Standard Terms and Conditions of Contract and the Commercial Conditions of Contract for Supply of Goods. These are Exhibits KB/06a [INQ000498784], KB/06b [INQ000498787], KB/06c [INQ000498788] and KB/06d [INQ000498789].
- 196 In relation to the Covid pandemic and during the period covered by my statement BSO PaLS did not award any direct award contracts on behalf of any HSC body where the suppliers terms applied. Where the supplier was seeking payment in advance (in full or in part), an agreed variation to the HSC standard terms and conditions of contract was applied.
- 197 During the early stages of the pandemic there was significant disruption to the supply of goods and equipment necessary to support the health and social care response to the pandemic. In these early stages the focus in securing supply was to seek to have goods delivered in single deliveries rather than on a planned basis; this approach was adopted in an effort to secure product on HSC premises. Often such deliveries, whilst procured on a single delivery basis, were made up of part deliveries as might have been the case pre-pandemic, and this did not cause undue disruption to supply. In respect of PPE, as supply improved and local manufacturing sources were developed, delivery schedules were agreed on a planned basis which allowed both the supplier and BSO PaLS to maximise the use of their available storage capacity. Additionally, where the items had

expiry dates, by structuring deliveries over time BSO PaLS was able to maximise the life span of those products, and manage future obsolescence.

- 198 I have referred to pre-payments and advance payments a number of times in my statement and at various sections throughout my statement. For clarity, during the pandemic BSO considered these two terms to be interchangeable and to mean payment in advance, either in full or in part, for goods being delivered to HSC premises. Whilst at all times BSO and BSO PaLS sought to avoid making any payment in advance for goods, the circumstances which applied during the pandemic, particularly during the early stages, where demand outstripped supply, meant that flexibility in our position was necessary to secure the products needed by HSC.
- 199 During the pandemic BSO approved 31 pre-payments for PPE. Of those 31 pre-payments, 20 were fully delivered, 8 contracts were terminated prior to any payment being made, 2 contracts were terminated with pre-payments successfully recovered and 1 contract was terminated and no monies have as yet been recovered. This latter contract was with a company called Company E who received a 50% payment in advance of \$1,056,250 which is equivalent to £795,548.69 as at 21 May 2024.

Distribution

- 200 The distribution of key healthcare equipment and supplies during the pandemic was directly influenced by the source of supply of the products concerned to HSC Trust. In respect of healthcare equipment purchased as part of HSC's response to the pandemic this was supplied direct to HSC bodies by the contractor upon whom an order for the equipment was placed. BSO PaLS had no role in the distribution of this equipment other than the sourcing and placing of a contract/purchase order. It is my understanding that such goods were delivered directly to the HSC facility to which the goods were destined for use and where that was not the case the goods once received were then delivered by internal transport departments to their final destination.
- 201 In respect of goods supplied through BSO PaLS warehouses, these are typically consumable products used in high volumes and during the pandemic included PPE and

Covid impacted products such as cleaning materials and sanitiser. During the very early stages of the pandemic, it was clear that normal processes and supply arrangements could not support the demands coming from HSC organisations and that significant changes were necessary to adapt to the pressures. Subsequently BSO PaLS Logistics Team undertook a reshaping of services due to the demand for PPE in particular. That reshaping meant that it became necessary for HSC Trusts to establish local PPE stores to hold products and control distribution to wards and departments with these local Trust PPE stores being fed from central supplies procured and warehoused by BSO PaLS. BSO PaLS adjusted warehouse cycles for the ordering and supply of PPE and Covid related products, moving from 3-day cycles to 8-hour cycles with Trusts communicating their needs each day through a PPE Supply Chain Cell (operational) with goods despatched that afternoon or evening. BSO PaLS co-ordinated this group and acted as an honest broker in considering how products might be allocated or shared when necessary.

- 202 The vast majority of these goods were distributed to HSC bodies from BSO PaLS warehouses using BSO's 'business as usual' distribution arrangements which were enhanced through the rental of additional fleet and employment of additional drivers on a temporary basis. This was the case for the vast majority of products supplied to HSC bodies and community settings such as GP surgeries and community pharmacies. In the case of independent care homes and domiciliary care providers, BSO PaLS delivered supplies of PPE to HSC Trusts and it is my understanding that those independent providers made arrangements with each Trust to obtain PPE from them on a regular basis.
- 203 There were a very few instances where other arrangements applied. For example, optometrists arranged to collect PPE directly from BSO PaLS warehouse in Boucher Crescent (small volumes of PPE involved) and for distribution of PPE to dental practices BSO PaLS engaged a third-party logistics provider, Maxwell Freight Services, as it did not have the fleet capacity to distribute to those organisations.
- 204 Stocks of PPE and medical items held within the PIPP stockpiles when released for deployment to HSC organisations were distributed through the BSO PaLS distribution

arrangements. This was particularly relevant during the early stages of the pandemic when demand for these products was particularly high and supply unstable.

- 205 PPE was supplied free of charge to independent care homes and domiciliary care providers as well as all primary care settings which were supplied with PPE. BSO PaLS was directed by the Health and Social Care Board and Silver Command to expand supply of PPE to GP Practices on 31 January 2020, Community Pharmacies on 10 March 2020, Optometrists in June 2020, Dental Hubs set up in the early surge of the pandemic on 3 April 2020 and notified of the Department of Health's intention to supply PPE to independent healthcare providers (care homes and domiciliary care services) on or about the 14 March 2020 when BSO was consulted on guidance to be issued to Independent Sector shared with BSO by Department of Health. Free of charge provision to Independent Sector care homes and domiciliary care providers ceased by order of the Permanent Secretary of Health on 31 March 2023.

Due to the volume of goods to be distributed, it became necessary for BSO PaLS to engage another third-party logistics provider to carry out distribution to dental practices and a small number of community service providers using their own drivers and vehicles. The company engaged was Maxwell Freight Services and their performance during the period they were engaged was acceptable. BSO PaLS also utilised Maxwell Freight Services to support internal relocation of bulk stocks of PPE between BSO PaLS warehouses.

- 206 I am not aware of any challenges or delays in distribution experienced other than those described previously and associated with the expanded set of organisations being serviced from the BSO PaLS warehouses necessitating engaging an additional third-party logistics provider. I have previously set out the system deployed by BSO PaLS to manage supply to HSC organisations and this system minimised the potential for delays, disruption and challenges arising.

Stock and warehouse management

207 The Key Personnel involved in the management of stock in BSO are as follows, please note that the job titles are those applicable during the period covered by my statement:

- Peter Wilson – Assistant Director – Procurement and Logistics
- Jonathan Semple – Head of Logistics and Community Equipment Service
- Patrick Mulhern – Senior Supply Chain Manager (up to December 2020)
- Michele Forshaw – Senior Supply Chain Manager (January 2021 onwards)

208 The process followed by BSO PaLS in monitoring, managing and distributing stock was as follows:

- Procurement sourcing teams identified, validated approved the supply.
- Purchase orders were raised by BSO PaLS Stock Management Team to the approved suppliers and lead times were confirmed.
- Stock Management Team monitored delivery schedules against promised lead times to ensure continuity of supply. Goods received are checked against PO and supplier paperwork and samples sent to MOIC for validation against previously completed technical assessment.
- Goods receipted onto the warehouse management systems to update inventory levels and trigger invoice payment.
- Expiry dates of goods captured as part of the inventory receipting process.
- Goods “put away” to appropriate storage locations within the BSO PaLS warehouses (bin locations).
- Internal movement of stock within the BSO PaLS warehouses was tracked using the warehouse management system at all stages of the warehousing process.
- Daily inventory control meetings were held by the BSO PaLS warehouse team to identify available inventory for supply to HSC bodies supported by spreadsheets designed for this purpose.
- Quantities of goods to be supplied to HSC bodies were agreed at each meeting of the Supply Chain Cell Group (Operational).
- BSO PaLS warehouse team picked, marshalled and delivered the goods required to the HSC bodies.

- 209 Monitoring of inventory was carried out utilising the well-established reporting capabilities of the BSO PaLS warehouse management system and this was enhanced by data provided by Trusts on the inventory levels within their local Covid PPE stores and the inventory levels within the PIPP stockpile which was managed by BSO PaLS on behalf of the Department of Health. This enabled BSO PaLS to report a comprehensive picture of PPE availability across the whole HSC system as part of the regular “Surge Demand v Forecast Report”
- 210 BSO PaLS had full visibility of inventory held in our warehouses including the expiry dates associated with products, this was robustly maintained throughout the period of the pandemic. BSO PaLS warehouses operate a purpose-designed modern warehouse management system (WMS) which integrates with the HSC finance and procurement systems. The WMS provides for the recording of receipts, inventory location, inventory volumes, expiry dates, picking locations and issues to customers (HSC organisations and any other organisation taking supply direct from BSO PaLS). This system was used throughout the pandemic, albeit for a period of time details were updated retrospectively in order to ensure the rapid supply of products to frontline users. As a result of maintaining this system alongside additional recording of expiry dates as PPE products were received, BSO PaLS was able to maintain an accurate record of expiry dates. BSO PaLS did not have a specific process to assess degradation of PPE purchased during the pandemic other than PPE product being stored in modern warehousing premises and regular inventory checks being carried out which include a visual check on the outer cartons. It is worth noting that as demand for PPE began to diminish in 2022/23, BSO PaLS started to include information on expiry of products within the “Surge Demand v Forecast” reporting, the commencement of which lies outside the period covered by the Inquiry.
- 211 I am not aware of BSO PaLS being informed of any concerns or risks associated with PPE purchased by BSO during the period of my statement. I am aware of concerns raised by HSC Trusts with BSO PaLS regarding the re-lifing of products coming from the PIPP stockpile, in particular the re-lifing of FFP3 masks held in that stockpile. This re-lifing was carried out nationally on behalf of England, Scotland, Wales and Northern Ireland and was co-ordinated by Department of Health and Social Care. BSO PaLS had

no role in that re-lifing process other than to provide sample products from the PIPP stockpile for testing on request from Department of Health Emergency Planning Branch. When such enquiries arose, BSO PaLS provided agreed statements that gave an assurance on the validity of the re-lifing and I have provided copies as evidence at Exhibits KB/39 [INQ000471363] and KB/40 [INQ000498840].

- 212 The BSO PaLS warehouse management system supported full visibility of expiry dates for all products purchased by BSO PaLS. This system was real-time and the reporting refreshed daily to reflect the updated inventory position, the shelf-life and demand trends. This enabled BSO PaLS to forecast the potential for surplus PPE stocks and introduce actions to minimise the impact of obsolescence.
- 213 I have previously described the system for receipt of goods and the recording of expiry dates, where applicable. By recording expiry dates at a product and batch level this provided full visibility of BSO PaLS exposure to expiry of stock. A process of First In First Out (FIFO) has been followed in an effort to minimise losses including physical controls to support rotation of stock. Of the total volume of PPE procured up to 31st March 2024 2.72% has expired in storage, this is due to the significant decline in demand for PPE, and a change in guidance in March 2023.
- 214 In total 362 million individual items of PPE purchased during the pandemic remain in stock at the end of March 2024, of which approximately 238 million items are gloves that are in continuous use across HSC and are not considered to be “surplus stock”. I have provided details of PPE stock levels held by BSO within our warehouses at 31 March 2024 as part of my evidence at Exhibit KB/41 [INQ000498841] Surplus stock has been donated to charity, stock has been repurposed, BSO PaLS has successfully extended the shelf life of some products in conjunction with the manufacturers, and we are currently exploring recycling opportunities. In addition to these actions, BSO PaLS is currently in discussions across the four nations about opportunities for mutual aid from Northern Ireland with the purpose of replenishing part of the national PIPP stockpiles through BSO PaLS stocks.

- 215 I have provided details of the total value of PPE purchased by BSO PaLS warehouses during the period covered by my statement as part of my evidence at Exhibit KB/35 [INQ000498835]. Since March 2022, BSO has written off £15.9m of surplus stock and has made provision for write-offs in future years; however, it is not possible to state with any certainty whether those future provisions will materialise as BSO PaLS staff are working with others on a range of mitigating actions likely to affect any final write-off values.
- 216 BSO PaLS did not set out to purchase surplus PPE stock rather PPE stocks purchased became surplus due to a number of factors. The most significant factor leading to surplus PPE stock was the accuracy of the demand modelling available. The Reasonable Worst-Case Scenario model (RWCS) and Reasonable Worst-Case Scenario 2 model (RWCS2) both overstated predicted demand. In particular, the demand predicted by the RWCS model which was based on full normal operation of HSC plus a 20% buffer and which was in use for 12 months was never met.
- 217 The inaccuracy of demand modelling contributed to the level of PPE procured. There may also have been other contributory factors within HSC organisations, details in respect of which I have no visibility. A very significant factor was a change in guidance in March 2023, following the end of the pandemic which resulted in a decision by the Department of Health to cease supply of PPE free of charge to the Independent Sector. These two elements (changing guidance and ceasing free supply) caused a significant drop in demand for BSO PaLS stocks.

Liaison with Northern Ireland Executive

- 218 BSO PaLS engaged with a number of organisations outside HSC. Included in those organisations are Department of Health, Construction Procurement Delivery (CPD) (part of Department of Finance), Northern Ireland Procurement Board (chaired by Minister of Finance in the NI Executive) and in addition to these organisations/bodies there was some limited contact with the Northern Ireland Executive.

- 219 Contact with Department of Health was regular and ongoing throughout the period covered by my statement albeit this contact was largely by telephone or Zoom and meetings were not formal. The engagement with DoH was positive and supportive and it is my understanding that BSO PaLS senior staff found it effective. In respect of PPE, BSO PaLS liaised with the Supply Chain Cell initially under the oversight of the Deputy Permanent Secretary Sharon Gallagher as Senior Responsible Officer later moving (late 2020) to Peter Jakobsen, Director at Department of Health. During the pandemic, the Department of Health continued to have responsibility for application of public procurement policy through its Procurement Policy Unit which lay within the responsibilities of the Sponsor Branch overseeing BSO. BSO supported the Command and Control structures operating under the Department of Health through its membership of HSC Silver Command and it was through Silver Command that BSO received modelling-based demand planning information.
- 220 During the early stages of the pandemic, BSO PaLS had regular contact with Sharon Smyth, at that time Director of Supplies and Services at CPD. These meetings were informal and covered key areas such as information sharing and the potential for joint procurement of PPE with the Health Service Executive in the Republic of Ireland, negotiation of the contract between Department of Health and China Resources and sharing of specifications and intelligence on Covid related matters.

Other than engagement with CPD, BSO PaLS had very limited contact with the Department of Finance during the period covered by my statement. The contact was confined to engagement with the then Permanent Secretary, Sue Gray, who provided assistance to BSO PaLS and Department of Health in making initial contact to secure mutual aid. In December 2020 the Minister of Finance, through his Department, invited BSO's Interim Director of Operations, Peter Wilson, to join a newly constituted Northern Ireland Procurement Board as the procurement Subject Matter Expert for Health, this Board had not sat for some time due to the absence of a Northern Ireland Assembly until December 2019. I am advised by the officers involved in these contacts with Department of Finance personnel that the engagement was positive and supportive of the efforts of BSO and BSO PaLS and that they considered it to be effective.

- 221 In respect of BSO PaLS contact with the Northern Ireland Executive, I can advise that there was no direct contact with the NI Executive. The Director of the Northern Ireland Bureau in Beijing who, it is my understanding, was prevented from returning to his station in Beijing by the pandemic and was subsequently working in Office of the First and Deputy First Ministers (OFMDFM) in the NI Executive provided support to BSO PaLS, CPD and Department of Health in negotiations on the contract for PPE between Department of Health and China Resource. I understand that this support was positive and helpful in negotiating this contract.
- 222 I have provided a list of the relevant meetings as part of the evidence I have provided with my statement, Exhibit KB/42a [INQ000498796] "Timeline of Meetings", included within this spreadsheet is a list of the documents held for each of the meetings on the timeline. It should be borne in mind that many of these meetings were informal and may not have had formal agendas or minutes.

Mutual aid between the four nations

- 223 I can advise the Inquiry that BSO PaLS participated in the process of "mutual aid" arrangements with other led procurement bodies in each of the four nations. This participation included both receiving and providing mutual aid. I have provided a table as part of my evidence which sets out the extent of mutual aid along with the timing, the volume and value of that aid. This is provided at Exhibit KB/42 [INQ000498842].

Lessons learned and reflections

- 224 I can advise the Inquiry that on the 1 March 2022 the Northern Ireland Audit Office published a review entitled "The COVID-19 pandemic: Supply and procurement of Personal Protective Equipment to local healthcare providers". I have provided a copy of this review as part of my evidence at Exhibit KB/02 [INQ000281185]. The Department of Health was the subject of the review and would hold a comprehensive set of the documents submitted to inform the review. That set would include those submitted by BSO PaLS to the Department of Health.

The Report contained four learning points, these are:

“Whilst BSO PaLS existing PPE stocks sufficiently addressed pre-COVID demand, these were clearly inadequate for meeting the huge increase in demand which arose with the arrival of COVID-19. National contingency planning for an influenza pandemic also provided access to a useful but limited emergency PPE stockpile. Whilst BSO PaLS has now ensured security of PPE supply for the foreseeable future, it is important to consider how longer-term planning can be further enhanced to ensure no future repetition of the shortages experienced in the early stages of the pandemic.

The widespread use of emergency procurement regulations and ability to award contracts without competition proved critical in helping ensure that the hugely increased volumes and new types of PPE required for COVID-19 were secured, albeit at a considerable economic cost. To avoid having to excessively use such contracts in the future, local procuring authorities need to consider how supply chain resilience can be strengthened and made more flexible to address any significant future increase in demand, not only for PPE, but for other goods and services for which demand could increase significantly and suddenly.

Early concerns around the quality and suitability of some PPE issued to healthcare staff have largely been resolved through the introduction of innovative and collaborative quality assurance processes. To maintain staff confidence, it is important that these processes are sustained, and where possible, further enhanced.

In addition to considering how contingency and emergency planning arrangements can be strengthened, more work is required in the area of demand modelling. Longer-term supply arrangements for the ICS also need to be clarified. Ongoing assessments of PPE supply chain readiness to meet the needs of local healthcare providers are also required, given the potential for future waves of COVID-19 and for other infectious pandemics.”

- 225 BSO and BSO PaLS accepted the learning points in their entirety where they related to BSO and BSO PaLS.

To date, BSO PaLS has not conducted any formal internal review or lessons learned exercise however Internally BSO PaLS has identified learning in respect of the use of Dynamic Purchasing Systems and development of local manufacturing capability in circumstances where there is limited resilience within the supply chain or a risk of protracted disruption to supply chains. This learning was reflected in a submission to the Government Opportunities Awards (GO Awards) in 2020/21. In addition, normal Internal Audit reviews have been carried out and any relevant recommendations actioned.

- 226 Following the pandemic, BSO PaLS has not made any changes to procurement practices as a direct result of the pandemic. However, in November 2021 the Northern Ireland Procurement Board published a Procurement Policy Note PPN 03 21 Supply Chain Resilience. BSO PaLS contributed to the development of this PPN and that contribution was heavily influenced by our experiences during the pandemic. Since the publication of PPN 03 21 BSO PaLS has adapted its procurement processes to reflect the policy requirements of the note. I have provided a copy as Exhibit KB/43 [INQ000494695].
- 227 BSO PaLS has incorporated some of the learning from its experience during the pandemic into its Business Continuity Plan in recognition of the need to prioritise aspects of service delivery in the face of widespread disruption to services.
- 228 As I advised earlier in my statement at sections entitled “During the Pandemic” and “The Buying Process”, BSO PaLS made use of the urgency provisions contained in the Public Contracts Regulations 2015 at Regulation 32 some weeks in advance of the publication of the Cabinet Office’s policy note. BSO PaLS ceased relying on that provision in July 2020 based on the premise that the first surge of the pandemic was “unforeseeable” but that subsequent surges were not “unforeseeable” and put in place a Dynamic Purchasing System for PPE as a result. Therefore, I do not believe that BSO PaLS found the regulations unduly challenging at the time.
- 229 In respect of the extant procurement policy in place at the commencement of the pandemic and applicable during the period of this statement, I believe that the absence of any specific guidance on the use of Direct Award Contracts during a pandemic or emergency situation and in particular the escalation and approval processes had the

potential to create delays in purchasing decisions. When this began to emerge as a potential issue, BSO sought support from the Department of Health for a derogation to the process to support swift decision-making for HSC bodies and this was immediately approved by the Permanent Secretary of the Department of Health. Whilst this matter presented a challenge at the early stages it was quickly resolved. It would be my view that future guidance on the use of Direct Award Contracts may wish to consider the experience of the pandemic and make specific provision for derogation in such circumstances.

- 230 In consultation with the Assistant Director – Procurement, as procurement Subject Matter Expert for HSC, I do not believe that the new regulations will present any greater challenge in dealing with a similar future pandemic as they contain provisions similar to those in the 2015 Regulations for making use of direct award of contracts.

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: 17 January 2025