

UK COVID-19 Inquiry Before Baroness Heather Hallett

Module 5 Hearings: March 2025

WRITTEN CLOSING STATEMENT
on behalf of
THE SCOTTISH GOVERNMENT

Introduction

1. In our Opening Statement, we highlighted the ‘keystones’ of the approach to procurement adopted by the Scottish Government during the pandemic. We identified those as collaboration, relationships, innovation and governance. We said that, by pursuing these principles, remarkable outcomes were achieved. Now, as this Module closes, we submit that these central tenets were reflected in the evidence. The Scottish Government does acknowledge that, at times, particularly in the early days of the pandemic, the system was put under great strain. A sharper understanding now exists of many issues. Undoubtedly there are lessons to be learned. In Scotland, the implementation of many of those lessons has already begun.

The Key Structures, Systems, and Processes for Procurement in Scotland

2. The Scottish Procurement and Property Directorate (“**SPPD**”) sits within the Director-General Corporate. That Directorate is responsible for developing and maintaining a framework of Scottish public procurement legislation and policy. It also leads and delivers operational public procurement activities in Scotland at national, central government and Scottish Government levels¹. The Directorate is not responsible for setting sector or commodity specific policies, procedures, or approaches².
3. On 20 March 2020, the Directorate issued a national procurement policy note (“**SPPN**”), titled “Coronavirus (Covid-19): procurement regulations for public bodies SPPN 4/2020”³, to remind those responsible for purchasing goods, services and works in the

¹ INQ000502043_0002 – Witness statement of DG Corporate at §3

² INQ000502043_0003 – Witness statement of DG Corporate at §7

³ INQ000485746 – Document from Scottish Government titled Scottish Procurement Policy Note, SPPN 4/2020 Procurement Regulations during Covid-19 outbreak, dated 20/03/2020

Scottish public sector of the compliant procurement routes to market⁴. That SPPN, and existing legislation⁵, recognised that, in exceptional circumstances, public bodies in Scotland may need to procure goods, services and works in extreme urgency⁶. The SPPN provided information on options available to purchasers in such circumstances. The Directorate went on to issue two further policy notes (SPPN 06/2020 “Coronavirus (COVID-19): making best use of procurement resources during COVID-19 outbreak (14 April 2020)” and SPPN 8/2020 “Coronavirus (COVID-19): recovery and transition from COVID-19 (12 June 2020)”). The existing legislation and SPPNs underpinned the procurement of any goods, services, and works before, during and after the pandemic.

4. As Professor Sanchez-Graells notes in his report for Module 5, the key principles and legal framework applicable before the pandemic remained stable and applicable throughout the pandemic⁷. There was, at the time, generally close alignment between the Four Nations in terms of procurement law, policy, and guidance⁸. The Scottish Government worked collaboratively with the UK Government to maintain this alignment⁹.
5. The procurement and distribution of PPE and healthcare equipment for the NHS in Scotland was, and is, delegated to a ‘special health board’, NHS National Services Scotland (“**NSS**”)¹⁰. Amongst its other functions, NSS acts as a procurement arm for the whole of the NHS in Scotland¹¹. NSS has tried and tested procedures in place in respect of the due diligence of suppliers, as well as pricing, quality control, distribution, and supply of a wide range of medical supplies and equipment. It has longstanding, trusted relationships with a diverse range of suppliers¹². The main criteria used by NSS for assessment were price, product specification, lead times, incoterms (i.e., business-to-business practice in contracts for the sale and purchase of goods) and certification details¹³. As the pandemic struck, there was therefore a robust procurement process in place. NSS and those processes continued to operate, albeit under extreme pressure due to unprecedented global demand¹⁴. Scotland’s other Health Boards were also able,

⁴ INQ000528102_0023 – Witness statement of Nicola Sturgeon at §80

⁵ Principally the Public Contracts (Scotland) Regulations 2015 or “**PCSR 2015**”, but also the Procurement (Scotland) Regulations 2016 or “**PSR 2016**”, the Utilities Contracts (Scotland) Regulations 2016 or “**UCSR 2016**”, and the Procurement Reform (Scotland) Act 2014 or “**2014 Act**”.

⁶ INQ000521969_0051 – Witness statement of Gordon Beattie at §199

⁷ INQ000539153_0062 – Report of Professor Sanchez-Graells at §196

⁸ INQ000539153_0044-0045 – Report of Professor Sanchez-Graells at §130 and §133

⁹ INQ000539153_0062 – Report of Professor Sanchez-Graells at §197

¹⁰ INQ000528102_0005 – Witness statement of Nicola Sturgeon at §17

¹¹ Evidence of Jeane Freeman, Transcript 13/6/12-23

¹² INQ000531855_0002 – Witness statement of Jeane Freeman at §3

¹³ INQ000521969_0043 – Witness statement of Gordon Beattie at §166

¹⁴ INQ000528102_0018 – Witness statement of Nicola Sturgeon at §54

on their own initiative, to procure additional PPE stock both before and during the pandemic¹⁵.

6. In April 2020, in recognition of the developing situation, a new short-term Directorate for PPE was established within Scottish Government's Director General for Health and Social Care. The Directorate was led by Paul Cackette, to provide strategic and coherent coordination in relation to all aspects of the provision of PPE in Scotland. In his oral evidence Mr Cackette explained that *"the intention behind the directorate was a response to concerns about the broad ranging provision of PPE once the pandemic had begun, and the purpose of that was to provide a Scottish Government coordination of a number of aspects of the supply of PPE"*¹⁶.
7. Mr Cackette was able to identify a number of advantages of the new directorate in the course of oral evidence, including that it allowed NSS *"to get on with what they were skilled at and expert at in delivering PPE across their areas of responsibility. So, in a sense, the directorate was a buffer coordinating all of this between ministers and their expectations, facing up the public response in the daily press conferences and the delivery mechanisms through, for example NSS but also Scotland Excel which was the local authority procurement overarching body"*¹⁷.
8. While Mr Cackette also recognised the challenges of setting up a new directorate in a pandemic, he agreed with Counsel to the Inquiry ("CTI") that, in an analogous situation he would *"have something akin to the PPE Directorate again in the future"*¹⁸. In light of the experience, Mr Cackette's view was that such a directorate in the future would be *"better prepared, better trained and better staffed"*¹⁹. He recommended a future focus on *"pre-planning"*²⁰ the *"ability to redeploy and have people who are skilled and trained"*²¹, while quite fairly not underestimating the *"challenges of doing so in practice for any administration"*²².

¹⁵ INQ000528102_0005 – Witness statement of Nicola Sturgeon at §17

¹⁶ Evidence of Paul Cackette, Transcript 13/138/18-22

¹⁷ Evidence of Paul Cackette, Transcript 13/143/6-11

¹⁸ Evidence of Paul Cackette, Transcript 13/160/3-7

¹⁹ Evidence of Paul Cackette, Transcript 13/160/8-9

²⁰ Evidence of Paul Cackette, Transcript 13/161/15

²¹ Evidence of Paul Cackette, Transcript 13/160/23-24

²² Evidence of Paul Cackette, Transcript 13/160/16-17

9. The “PPE Team”, as this term is defined in the statement of the DG HSC²³, led, amongst other things, on the development and publication of the ‘PPE Action Plan’²⁴. The Scottish Government’s PPE Action Plan aimed to ensure that the “*right PPE of the right quality gets to the people who need it at the right time*”²⁵. It set out the roles and responsibilities, at a national level, for procuring and distributing PPE, as well as the governance arrangements within the Scottish Government. The Scottish Government set up a PPE Strategy and Governance Board. This Board was responsible, *inter alia*, for overseeing the implementation of the PPE Action Plan²⁶. This included an action to improve evidence about the fit and comfort of PPE for different groups, including women and ethnic minorities. It also supported opportunities to develop a Scottish PPE supply chain, and oversaw work around environmentally sustainable and reusable PPE.
10. The procurement and distribution of PPE in Scotland was enabled through networks, professional relationships, collaborations, and levels of commercial professionalism. These were built up through a significant Procurement Reform Programme that started in 2006. As a result, contacts and relationships were already in place across all sectors that could be relied upon for sharing intelligence, suppliers’ stocks, and distribution. This meant that those procuring PPE were already used to working within public sector procurement policy and legislation, as well as having well-established connections with technical and clinical experts, and with the people who were using the PPE procured²⁷.
11. During the pandemic, procurement of ICU equipment was undertaken by NSS in collaboration with the Scottish Government ICU Resilience and Support Group²⁸. This group provided central coordination and made key decisions on the distribution of ICU equipment to NHS boards²⁹. It facilitated coordination between key NHS organisations. It was also responsible for identifying Health Board ICU equipment requirements, Health Board requests for ICU equipment and supporting Health Boards with any issues in equipping their ICU beds.
12. In mid-March 2020, a working group was established by the then Minister for Trade, Investment and Innovation, Ivan McKee, to offer support in relation to the sourcing of

²³ INQ000498141_0011 – Witness statement of DG HSC at §27

²⁴ INQ000498141_0011 – Witness statement of DG HSC at §28

²⁵ INQ000225992_0005 - Policy document from the Scottish Government titled Personal Protective Equipment (PPE) for Covid-19 - Scotland's Action Plan, dated October 2020

²⁶ INQ000498141_0013-15- Witness statement of DG HSC at §34-39

²⁷ INQ000528102_0018 – Witness statement of Nicola Sturgeon at §55

²⁸ INQ000528102_0021 – Witness statement of Nicola Sturgeon at §69

²⁹ INQ000498141_0124- Witness statement of DG HSC at §309

PPE and equipment relating to the pandemic (the “**Working Group**”). The Working Group comprised of representatives from the Scottish Government, NSS, Scottish Enterprise, Scottish Development International (i.e., Scotland’s inward trade and inward investment agency) and National Manufacturing Institute Scotland (which offers a network of world-class manufacturing research and development facilities)³⁰. The goal of the Working Group was to identify potential sources of material and equipment required for the pandemic, with a primary focus on working with Scottish manufacturers to redirect or expand production, in order to support national requirements and, where necessary, to acquire PPE through international supply routes³¹.

Governance, Transparency & Accountability

13. The Scottish Government relied upon pre-existing policies and the legislative framework to ensure transparency in procurement³². Regulation 33 of PCSR 2015 and regulation 6 of PSR 2016 allow for the direct award of a contract without competition, and regulation 72 of PCSR 2015 allows for the modification of an existing contract without a new procurement procedure³³. The requirements to secure value for money to the extent permitted by marketing conditions, and to take active steps to avoid or mitigate abnormally high prices as far possible, were emphasised in the SPPNs. The normal rules about record keeping, transparency and guarding against conflict of interest (e.g. regulation 83 PCSR 2015) still applied. There is a documented and controlled approach in the Scottish Government to handling and publishing direct awards to underpin compliance with the legislation³⁴.
14. The use of the emergency ‘extreme urgency’ provisions within existing procurement legislation was necessary and contributed to the speed at which the Scottish Government and NSS could implement their response. All procurement undertaken during the pandemic adhered to existing procurement legislation and policies, including robust ‘due diligence’ checks. The Scottish Government recognises the importance of transparency in procurement processes, as noted by Mr Cackette³⁵. There was some delay in NSS publishing some of the award notices within the required time period, as

³⁰ INQ000502043_0010 – Witness statement of DG Corporate at §25

³¹ INQ000527716_0002 – Witness statement of Ivan McKee at §10

³² INQ000502043_0020 - Witness statement of DG Corporate at §55

³³ INQ000502043_0008 - Witness statement of DG Corporate at §19

³⁴ INQ000502043_0008 - Witness statement of DG Corporate at §19

³⁵ Evidence of Paul Cackette, Transcript 13/162/18 – 13/163/13

staff were working under extreme pressure. However, when they were published, the delayed notices had an additional note providing the reason for the delay³⁶.

15. Given the role of NSS, the Scottish Government was not directly responsible for buying key healthcare equipment and supplies for health and social care. In terms of procurement action undertaken by the Scottish Government, a framework contract was awarded to Lyreco to supply PPE to non-health or social care essential services, who had no or limited access to PPE³⁷. Scottish public bodies (outwith the NHS or the regulated care sector), registered Scottish charities and private companies employing staff undertaking essential public services, were all able to access PPE via this framework³⁸. Its aim was to assist essential workers who were struggling to access PPE. This contract was awarded under a Non-Competitive Action³⁹ - that is to say it was an 'award of a contract without prior publication of a call for competition' on the basis of 'extreme urgency brought about by events unforeseeable for the contracting authority', made in line with the applicable procurement legislation and SPPNs. The initial contract period commenced on 26 May 2020, and ended on 31 October 2021, by which time PPE supply had stabilised and feedback from users confirmed their PPE supply chains were strong⁴⁰.
16. Lyreco was an existing and trusted supplier to the Scottish Government and had been subject to relevant due diligence checks previously⁴¹. Lyreco also had a proven logistics model for distributing the PPE. Lyreco agreed to supply PPE to these public bodies on effectively an "at cost" basis⁴², making the contract good value for money. The Scottish Government PPE Team managed this contract on a day-to-day basis, having frequent, at first daily, calls and receiving regular reports on the stock position. This contract ensured that essential services, such as funeral directors, had access to a stable supply of high-quality PPE and could therefore continue to operate safely, if their usual supply routes collapsed⁴³. A lessons learned evaluation for the Lyreco framework was completed by the PPE Unit in December 2021. This detailed the strengths of the framework, such as allowing essential public services to purchase PPE of an assured quality at market price, while not replacing any existing 'business as usual' routes. The

³⁶ INQ000528102_0023 – Witness statement of Nicola Sturgeon at §82

³⁷ INQ000502043_0013 – Witness statement of DG Corporate at §38

³⁸ INQ000528102_0007 - Witness statement of Nicola Sturgeon at §23

³⁹ INQ000531855_0022 – Witness statement of Jeane Freeman at §73

⁴⁰ INQ000498141_0059 - Witness statement of DG HSC at §183-184

⁴¹ INQ000528102_0023 - Witness statement of Nicola Sturgeon at §83

⁴² Evidence of Paul Cackette, Transcript 13/164/17-22

⁴³ INQ000528102_0023 - Witness statement of Nicola Sturgeon at §83

good governance in place throughout the framework was also highlighted, with a strong understanding of risk throughout its lifetime and the continuous consideration of improvements⁴⁴.

17. The Scottish Government noted questions posed to Mr Cackette suggesting there was a “disparity” caused by the Lyreco framework being a commercial contract⁴⁵. The Scottish Government, for the avoidance of doubt, does not believe that the awarding of a commercial contract that enabled public bodies in Scotland to access PPE more easily caused any “disparity”.
18. In total, the Scottish Government incurred costs relating to PPE of £172.76m in 2020/21 and £79.6m in 2021/22⁴⁶. This covers the Small Business Research Initiative ‘PPE Innovation Project’ (see §115 below), the Lyreco framework, additional funding to NSS for PPE purchasing, additional funding to frontline NHS Boards and an inventory management system (although the 2021/22 figure includes £84.1m in a ‘favourable accounting adjustment’ due to the use of brought forward stock). The Scottish Government directly spent £544,296 on PPE (including hand sanitiser) for its own use, £2,000,000 for freight forwarding services and £9,000 on supplier validation services⁴⁷.
19. There have been no suspicions or concerns regarding, nor instances of, fraud, in relation to procurement or award of contracts before, during or after the pandemic, in respect of any approach, bid or contact by SPPD⁴⁸. In addition, no conflicts of interest by civil servants or Ministers were identified in the contracts managed by Scottish Government, relevant to the scope of Module 5⁴⁹. Audit Scotland, in the Scottish Government Annual Audit 2020/21, carried out an assessment of the arrangements in place at the Scottish Government to prevent fraud and corruption in the procurement function. The report concluded that the Scottish Government had applied the appropriate controls regarding new or extended Covid-19 procurement contracts⁵⁰.

⁴⁴ INQ000502043_0024 – witness statement of DG Corporate at §75

⁴⁵ Evidence of Paul Cackette, Transcript 13/165/4 – 13/166/2

⁴⁶ INQ000498141_0182 – Witness statement of DG HSC at §450

⁴⁷ INQ000498141_0182 – Witness statement of DG HSC at §451

⁴⁸ INQ000502043_0020 – Witness statement of DG Corporate at §56

⁴⁹ INQ000502043_0022 – Witness statement of DG Corporate at §68

⁵⁰ Publicly available – Audit Scotland – Scottish Government 2020/21 Annual Audit report at §75 - https://audit.scot/uploads/docs/report/2022/aar_2021_scottish_government.pdf

Collaboration, Relationships, Innovation and Skills

20. The Scottish Government worked hard to develop and maintain key relationships and to collaborate and to innovate where they could in order to ensure the procurement of vital supplies throughout the pandemic.
21. The combined skills of the Scottish Government and NSS were critical to the response. The Scottish Government worked closely and effectively with NSS, as it did with a number of other public sector bodies. Ms Freeman in her statement, described NSS as “*unique feature of the distinctive health infrastructure in Scotland*”⁵¹ and “*the experience of NSS gave Scottish Ministers a significant advantage in the management of the pandemic compared to other parts of the UK*”⁵². That significant advantage had a number of elements to it. As Ms Freeman put it in her oral evidence:

*“First of all, the length of time that from the Common Services Agency through to its operation as NSS, that it had been around. It had longstanding established relationships with suppliers across a range of consumables for NHS. It had well established relationships with clinical and other advisers on the nature of what comestibles or supplies might be needed and how they would develop over time through improvements in healthcare and innovation. It had a well-established procurement process of due diligence and probity to test suppliers’ probity but also their capacity to deliver, which meant that for us, we could it also had a level of expertise in the whole field of procurement that meant that when we had something like a pandemic then we already had this established experienced body of expertise and due process that we could then use and apply to the situation that we were then confronted with”*⁵³.

22. By having an established expert body like NSS in place, there was no need to ‘reinvent the wheel’ and create entirely new procurement teams, systems and processes while in the midst of an emergency. As Mr Cackette noted, it was “*vital not to disturb existing systems more than necessary or cause damaging consequences by requiring changes to existing systems without necessarily fully understanding them where cutting across them causes more harm than good*”⁵⁴. Nor did Scotland have to rely on large and costly teams of consultants in the manner described by Lord Agnew⁵⁵. Ms Freeman’s view was

⁵¹ INQ000531855_0002 – Witness statement of Jeane Freeman at §3

⁵² INQ000531855_0011 – Witness statement of Jeane Freeman at §38

⁵³ Evidence of Jean Freeman, Transcript 13/7/23 – 13/8/15

⁵⁴ INQ000512904_0008 – Witness statement of Paul Cackette at §2.8

⁵⁵ Evidence of Lord Agnew, Transcript 10/132/4 – 10/134/6

that she could not “*think what more NSS could have done*”⁵⁶ to prepare for pandemic PPE procurement.

23. Another aspect of this advantage was that Scotland had, as Gordon Beattie of NSS noted, “*lots of single systems working*”⁵⁷. Scotland had “*a single inventory management system... a single finance system*”, which was not “*the same case in the rest of the UK*”⁵⁸. This simplicity was enhanced by the very close working relationship, as was demonstrated in the evidence heard during Module 3, between the Scottish Government and the Health Boards in Scotland.
24. Mr Beattie specifically praised the collaborative working of the ‘Single Point of Contact’ strategic PPE group. This group brought together NSS, Health Boards, Scottish Government and others⁵⁹, and in his view was a “*really useful mechanism*” that he would “*totally*” recommend for the future⁶⁰.
25. Mr Cackette noted that the creation of the PPE Directorate allowed NSS to “*get on with what they were skilled at and expert at*”⁶¹, i.e. operational procurement activity rather than “*political small P, let alone Political capital P, process*”⁶². The PPE Directorate, as explained earlier, took some of the pressure off NSS by acting as “*a buffer coordinating all of this between ministers and their expectations*”. As noted above, Ms Freeman explained that the level of expertise within NSS, and its longstanding relationships with suppliers and clinical advisors, gave Scotland a significant advantage. The Scottish Government worked effectively with Scottish manufacturers, alongside public sector agencies and bodies, to encourage and assist the production of PPE. Mr Beattie described the work to establish locally based suppliers to manufacture PPE in Scotland as having “*transformed what we were doing*”⁶³. The work was “*very successful*”⁶⁴. By April 2021, 88% of PPE by value, excluding gloves, was manufactured in Scotland⁶⁵,

⁵⁶ Evidence of Jean Freeman, Transcript 13/21/22

⁵⁷ Evidence of Gordon Beattie, Transcript 13/12/21

⁵⁸ Evidence of Gordon Beattie, Transcript 13/12/19-22

⁵⁹ INQ000521969, Witness statement of Gordon Beattie at §33

⁶⁰ Evidence of Gordon Beattie, Transcript 13/98/18 – 13/99/15

⁶¹ Evidence of Paul Cackette, Transcript 13/143/3-4

⁶² Evidence of Paul Cackette, Transcript 13/143/2-3

⁶³ Evidence of Gordon Beattie, Transcript 13/100/17

⁶⁴ Evidence of Gordon Beattie, Transcript 13/101/5

⁶⁵ INQ000108737_0004 - Report from Audit Scotland titled Covid-19 Personal Protective Equipment, dated June 2021; Evidence of Gordon Beattie, Transcript 13/101/5-8

often using Scottish raw materials. Further, Scottish Government Officials facilitated overseas procurement efforts to maintain supply⁶⁶.

26. In March 2020, when primary care and social care providers were unable to source increased amounts of PPE from their regular private suppliers, the Scottish Government intervened. It temporarily expanded the remit of NSS to provide PPE to primary care, dental care, opticians, pharmacies, and residential social care and home-based social care⁶⁷. This was done for social care via a triage service and a series of localised 'hubs', with the aim thereafter of local distribution. When in mid-April 2020 the pressure on the hubs became intense, and the demand within care homes for PPE grew, the First Minister, Ms Sturgeon, decided that the Scottish Government would work with NSS, to organise a one-off direct supply of PPE to around 1,100 nursing and care homes across Scotland⁶⁸.
27. In April 2020 the Cabinet Secretary for Health and Sport, Ms Freeman established a PPE Supply 'Helpline', that allowed health and social care staff, who required PPE to which they were entitled according to clinical advice, to email a dedicated mailbox⁶⁹. Ms Freeman acknowledged in her oral evidence that it was a logistical challenge to set up the 'hubs' and 'helpline' but that the timeline for the establishment of the local hubs, and helpline, in just over a month was "*pretty impressive*"⁷⁰. Indeed, once it was agreed on 31 March 2020 that there should be a dedicated mailbox set up for individuals to contact on matters relating to PPE supply, it was established the following day⁷¹. As Ms Freeman put it in evidence, it was established very quickly because she wanted a means by which staff on the front line could raise directly with the Scottish Government issues that they were experiencing on shift⁷². While she and Mr Cackette⁷³ accepted that median response times were initially too slow, within a month, following Mr Cackette's review, in Ms Freeman's words they had "*improved considerably*"⁷⁴. After 24 June 2020 no new queries about frontline staff access to PPE were received by the PPE Helpline which

⁶⁶ See e.g. INQ000502043_0012 – Witness statement of DG Corporate at §34

⁶⁷ INQ000531855_0008 – Witness statement of Jeane Freeman at §327

⁶⁸ INQ000512904_0029 – Witness statement of Paul Cackette at §3.79

⁶⁹ INQ000498141_0036 – Witness statement of DG HSC at §100-114

⁷⁰ Evidence of Jeane Freeman, Transcript 13/16/7-9

⁷¹ INQ000498141_0036 – Witness statement of DG HSC at §100-101

⁷² Evidence of Jeane Freeman, Transcript 13/19/12-16

⁷³ Evidence of Paul Cackette, Transcript 13/156/21-22

⁷⁴ Evidence of Jeane Freeman, Transcript 13/19/24 – 13/20/1

suggests that the 'push' model of distribution was successful in the early stages of the pandemic⁷⁵, and that systems in place were working⁷⁶.

28. The Scottish Government does not accept that social care was seen as 'secondary' to the NHS, either in respect of the provision of PPE or otherwise. Ms Freeman similarly rejected this proposition⁷⁷. The Scottish Government recognised that both the care system and the health system played an important role. As soon as the problems that individual care homes had in securing both the quantity and type of PPE they needed were raised with the Scottish Government, the Scottish Government acted quickly to ensure they could supply that PPE⁷⁸. Ms Freeman states, *"I think we responded very quickly to the issues that were raised, because we understood the absolute importance of adequate PPE in our residential and at home social care sector and we also extended it to unpaid carers, to personal assistants for people with disabilities and to the third sector"*⁷⁹. In her view, NSS responded very quickly and collegiately to work with Dr Macaskill of Scottish Care and others to see the best route for individual care homes and provide their volume demand information⁸⁰.
29. The Scottish Government agrees with Ms Freeman's observation that we are now better placed in terms of recognising the *"importance of wrapping our arms around from the outset all of health and social care regardless of the model"*⁸¹. A future pandemic is unlikely to respect the precise funding arrangements of particular aspects of the delivery of health or social care. To that extent, being prepared to deploy the expertise of a body like NSS to procure supplies across the system in an emergency is an important lesson to be learned.
30. In respect of the relationship and collaboration between the UK Government and the Scottish Government, there were clear examples where both governments worked together in a very positive way.
31. The procurement of ICU equipment in the government stockpile was an area in which the DHSC, the DAs and the Crown Dependencies worked collaboratively right from the start, as Ms Lamb confirmed⁸². Furthermore, Ms Lamb noted that the DHSC team

⁷⁵ INQ000498141_0029 – Witness statement of DG HSC at §78

⁷⁶ INQ000528102_0025 – Witness statement of Nicola Sturgeon at §92

⁷⁷ Evidence of Jeane Freeman, Transcript 13/22/25 – 13/23/2

⁷⁸ Evidence of Jeane Freeman, Transcript 13/22/25 – 13/23/10

⁷⁹ Evidence of Jeane Freeman, Transcript 13/23/20-25

⁸⁰ Evidence of Jeane Freeman, Transcript 13/23/10-14

⁸¹ Evidence of Jeane Freeman, Transcript 13/21/23-24

⁸² Evidence of Caroline Lamb, Transcript 13/81/3-11

worked diligently to ensure that ICU equipment was identified and distributed directly to NHS Boards in Scotland⁸³. The evidence shows this to have been an area of very strong collaborative working with the UK Government. Christopher Stirling, then programme director of the joint DHSC and NHS England Covid oxygen ventilation device and clinical consumables response, confirmed that activities undertaken at a UK wide level had a strategic intent *“to do as much together as practical and beneficial whilst respecting the devolution of authority”*⁸⁴. There was clear evidence of good collaboration in his evidence.

32. The responsibility for the supply and distribution of Lateral Flow Device (“LFD”) self-testing kits and Polymerase Chain Reaction (“PCR”) testing kits in Scotland broadly rested with NSS⁸⁵. The Scottish Government did not play a direct role in the procurement of LFD, as these came via a Four Nations route⁸⁶. Mr McKee did work with NSS via the Testing Supply Chain Oversight Group to identify a supplier with direct links into a volume PCR manufacturer in China⁸⁷. Further, NSS worked closely with Scottish Enterprise to develop a new PCR test kit assembly and distribution supply solution with a company based in the Scottish Borders⁸⁸.
33. A testing programme Memorandum of Understanding (“MOU”)⁸⁹ was put in place, signed by the Cabinet Secretary of Health and Sport and the UK Secretary of State for Health and Social Care, in April 2021⁹⁰. Before the MOU was signed, the Devolved Administrations and the UK Government had worked collaboratively, and in the spirit of cooperation among the Four Nations, in the development of the testing programme. Officials from the Devolved Administrations established high-level principles for the testing programme in September 2020 and shared them with DHSC officials. The MOU in April 2021 effectively formalised arrangements that had been in place to deliver testing across the UK since the early stages of the pandemic.
34. The evidence as it relates to PPE procurement and distribution was, however, somewhat more mixed as it pertained to collaboration by the UK Government with the Scottish Government. This was not the case in respect of collaboration between the Devolved

⁸³ Evidence of Caroline Lamb, Transcript 13/81/3-11

⁸⁴ Evidence of Chris Stirling, Transcript 9/70/13-22

⁸⁵ INQ000521969_0022 – Witness statement of Gordon Beattie at §74

⁸⁶ Evidence of Gordon Beattie, Transcript 13/91/21-22

⁸⁷ INQ000521969_0027 – Witness statement of Gordon Beattie at §101

⁸⁸ INQ000521969_0027 – Witness statement of Gordon Beattie at §103

⁸⁹ INQ000203654 - Memorandum of Understanding between The Scottish Ministers and The Secretary of State for Health and Social Care Acting Through DHSC, dated 29/04/2021

⁹⁰ INQ000498141_0146 – Witness statement of DG HSC at §365

Administrations. Karen Bailey summed it up well when describing the “*very close and positive relationships*” amongst the Devolved Administrations⁹¹.

35. A Four Nations PPE governance group (the ‘Strategic PPE Four Nations Board’) was established at the beginning of the outbreak to ensure decisions on the procurement of PPE were transparent across all Four Nations and to consider the different views and responsibilities across the UK⁹². This group was chaired by the UK Department of Health and Social Care with Scottish Government and other Devolved Administration officials attending and contributing⁹³. A protocol was initially drawn up to formalise agreement on the way in which UK-procured pandemic stock would be distributed as part of the Covid-19 response. The first protocol was drawn up to meet “*urgent temporary needs*”⁹⁴. As CTI noted, and Ms Lamb agreed, there were “*obvious*” reasons why that was⁹⁵.
36. There was a degree of cooperation on procurement and distribution of PPE as part of the Four Nations PPE plan which was first launched on 10 April 2020⁹⁶. The key features of the Four Nations PPE plan according to Caroline Lamb were “*cooperation and collaboration*”⁹⁷ between the Four Nations. The Four Nations Health Ministers met regularly (around 43 times) between April 2020 and January 2022⁹⁸.
37. The DHSC PPE Strategy of September 2020 covered the Four Nations⁹⁹. That strategy was welcomed by the Scottish Government “*because it moved away from the concept that the Department of Health would procure everything on behalf of the Four nations to a process that was much more collaborative*”¹⁰⁰. The strategy emphasised mutual aid and cooperation. That mutual aid arrangement worked effectively. Ms Lamb agreed with the proposition put by CTI that there was a desire and a will to cooperate¹⁰¹. By way of example, in May 2020 Scotland provided two million masks to England and about 1.2 million masks to Wales¹⁰². Andrew Slade of the Welsh Government gave examples in

⁹¹ Evidence of Karen Bailey, Transcript 15/12/2

⁹² INQ000502043_0012 – Witness statement of DG Corporate at §57

⁹³ Evidence of Caroline Lamb, Transcript 13/53/18 – 13/54/5

⁹⁴ INQ000498141_0068 – Witness statement of DG HSC at §223

⁹⁵ Evidence of Caroline Lamb, Transcript 13/54/11-13

⁹⁶ INQ000050008 - Report from Department of Health and Social Care titled Covid-19: Personal Protective Equipment (PPE) Plan, dated 10/04/2020

⁹⁷ Evidence of Caroline Lamb, Transcript 13/53/9-11

⁹⁸ Evidence of Caroline Lamb, Transcript 13/53/16-21

⁹⁹ INQ000320484 - Report from Department of Health and Social Care titled “Personal Protective Equipment (PPE) Strategy Stabilise and build resilience”, dated 28/09/2020

¹⁰⁰ Evidence of Caroline Lamb, Transcript 13/67/6-9

¹⁰¹ Evidence of Caroline Lamb, Transcript 13/68/19-21

¹⁰² Evidence of Caroline Lamb, Transcript 13/67/23-25

the course of his evidence of that mutual aid working in practice from the Welsh perspective¹⁰³.

38. However, it is clear from the evidence, not simply of the Scottish Government, but of the other Devolved Nations, that the supply of PPE by the UK Government at the start of the pandemic to the Devolved Nations was not sufficient to meet requirements. The UK Government procurement process was, in Ms Lamb's words, "*not providing Scotland with what it needed*"¹⁰⁴. Early in the pandemic the PPE being delivered to the Devolved Administrations through UK wide procurement was, perhaps somewhat diplomatically described by Ms Lamb as, "*limited*"¹⁰⁵. Indeed she agreed with the starker framing in her statement, put to her by CTI, that, "*The [devolved administrations] understood that DHSC could not guarantee that the UK [Government]-led procurement could meet the needs of the devolved governments at that time*"¹⁰⁶.
39. This, as Ms Lamb noted, led to Scotland, "*incurring significant costs to secure sufficient PPE for frontline workers*"¹⁰⁷ and that, contrary to initial expectations and notwithstanding some requests for mutual aid, "*NSS provided the majority of the PPE in Scotland*"¹⁰⁸. We will address the question of funding this direct procurement below at §57 - 62.
40. Scotland's experience in this respect appears to have been shared by counterparts in Wales and Northern Ireland. For example, Jonathan Irvine stated Wales had, "*no choice but to start sourcing*" their own PPE after being given, "*no clear indication from UK central organisations, whether that be NHS England or DHSC, that any replenishing of the PIPP stockpile or any other supplies would be forthcoming*"¹⁰⁹. Similarly, CTI put to Karen Bailey without dispute that Northern Ireland, which had been heavily reliant on central procurement via the UK Government, "*was put in a place where it was going to have to do much more direct procurement*"¹¹⁰.
41. These originally "*urgent temporary*" protocol arrangements, did, as Ms Lamb noted, ultimately develop to "*clarify the arrangements*"¹¹¹. A formal 'Four Nations PPE

¹⁰³ Evidence of Andrew Slade, Transcript 14/75/4-6

¹⁰⁴ Evidence of Caroline Lamb, Transcript 13/67/11-12

¹⁰⁵ Evidence of Caroline Lamb, Transcript 13/62/10

¹⁰⁶ Evidence of Caroline Lamb, Transcript 13/62/11-19; quoting INQ000498141_0068 – Witness statement of DG HSC at §224

¹⁰⁷ Evidence of Caroline Lamb, Transcript 13/63/1-5

¹⁰⁸ Evidence of Caroline Lamb, Transcript 13/62/20-25

¹⁰⁹ Evidence of Jonathan Irvine, Transcript 14/119/17 – 14/120/1

¹¹⁰ Evidence of Karen Bailey, Transcript 15/18/1-7

¹¹¹ Evidence of Caroline Lamb, Transcript 13/54/15-16

collaborative protocol' was entered into between the UK Government and the Devolved Administrations in February 2021¹¹². Mr Beattie's statement described its purpose as "*to confirm devolved authority responsibilities and maintain collaborative working*"¹¹³.

42. Ms Lamb noted that after this protocol was agreed that data sharing improved¹¹⁴. Contrary, however, to the impression that might have been taken from Steve Barclay's evidence¹¹⁵, the improvement was more on the part of the UK Government's sharing of data with the Devolved Administrations than vice versa. The Scottish Government had been providing information but receiving little in return. Prior to this the Scottish Government had, for example, been "*able to access information about pricing of DHSC stocks but not the extent of stock held or on order*"¹¹⁶. As Ms Lamb noted "*my experience was that the challenges that were experienced were in the – Scotland having visibility of UK data, rather than the other way round*"¹¹⁷. The Scottish Government does, however, agree with Mr Barclay about the importance of data sharing taking place in any future pandemic¹¹⁸.
43. It should be noted that, despite these issues and the length of time it took to put the formalised protocol into place, Ms Lamb's view was that she did not "*think there was a material impact on the supply of PPE to Scotland*"¹¹⁹. She largely put this down to the fact that "*we had NSS doing the work for us*"¹²⁰ and their understanding of Scotland's requirements was "*pretty sophisticated*"¹²¹. This is another example of the excellent work of NSS during the pandemic.
44. There were other specific issues which arose in the course of the pandemic in the context of the procurement of PPE in particular.
45. One such issue encountered in respect of Four Nations working was concerned with pricing of PPE stock. Initially HM Treasury wanted Scotland (and the other Devolved Administrations) to pay based on the price that had been paid for PPE (often when prices were at their peak) rather than the market value at the time when they were drawing

¹¹² The text of the protocol is found at INQ000242496_0003 - Paper from Cabinet Secretary for Health and Sport titled Protocol with UK Government and Other Devolved Administrations on PPE, undated. [File name indicates date of 01/02/2021]

¹¹³ INQ000521969_0012 – Witness statement of Gordon Beattie at §38

¹¹⁴ Evidence of Caroline Lamb, Transcript 13/57/14-17

¹¹⁵ Evidence of Steve Barclay, Transcript 7/118/15 – 7/119/4

¹¹⁶ quoting INQ000498141_0070 – Witness statement of DG HSC at §235

¹¹⁷ Evidence of Caroline Lamb, 13/74/12-14

¹¹⁸ Evidence of Steve Barclay, Transcript 7/118/24 – 7/119/4

¹¹⁹ Evidence of Caroline Lamb, Transcript 13/58/13-14

¹²⁰ Evidence of Caroline Lamb, Transcript 13/58/18

¹²¹ Evidence of Caroline Lamb, Transcript 13/58/11

down the stock¹²². That did eventually change to market value, although Ms Lamb could not recall precisely when this was¹²³. Ms Lamb was of the view that if this change had occurred earlier, it may have led to increased procurement from UK stocks, as opposed to relying so much on NSS' procurement efforts, because *"it would have made it a more attractive a proposition"*¹²⁴ if Scotland had *"thought that we were getting a more competitive price compared to the prices that we knew that NSS were able to access"*¹²⁵.

46. Another issue was the apparent withdrawal of Embassy support to officials from the Devolved Administrations. Sir Chris Wormald wrote to the permanent secretaries of the Devolved Administrations on 16 April 2020¹²⁶. That letter advised that UK Embassies had been instructed to work on a single UK "ask" on international procurement.
47. The Scottish Government notes that this action appears to have been predicated on UK Government fears of intra-UK competition for PPE. Andy Wood noted that this *"risk was always there"*¹²⁷. Despite this, however, the Inquiry heard no direct evidence that this risk materialised, i.e. evidence about any occasion that Scottish and UK government procurement teams were directly bidding for the same supplies. As Jonathan Marron noted, the Four Nations, *"continued to coordinate to try and avoid that"*¹²⁸. Indeed, when asked about the concerns of intra-UK competition for supplies, Ms Freeman's view was that she *"never felt, and... was never made aware, that there was the kind of competition that your question might suggest"*¹²⁹.
48. Ms Lamb did not consider the withdrawal of Embassy support to be appropriate. Her view, with which the Scottish Government agrees, was that *"overseas networks absolutely are there to provide support to the devolved nations within the UK. Procurement, that's health procurement, are devolved matters and I think it was – it wasn't for the UK – sorry it wasn't for England to decide unilaterally, effectively, that those mechanism should not be available to Scotland"*¹³⁰. Such a decision was hard to reconcile with the apparently collaborative approach indicated in the April 2020 DHSC

¹²² Evidence of Caroline Lamb, Transcript 13/66/2-6

¹²³ Evidence of Caroline Lamb, Transcript 13/66/9-13

¹²⁴ Evidence of Caroline Lamb, Transcript 13/66/22-23

¹²⁵ Evidence of Caroline Lamb, Transcript 13/66/19-21

¹²⁶ INQ000496582 - Letter from Sir Chris Wormald (PS, DHSC) to Dame Shan (PS, Welsh Government) and David Sterling (PS, Northern Ireland) and Leslie Evans (PS, Scottish Government), regarding International Procurement of Medical Supplies to Support a UK Wide Response to Covid-19, dated April 2020

¹²⁷ Evidence of Andy Wood, Transcript 4/181/3-22

¹²⁸ Evidence of Jonathan Marron, Transcript 3/224/5-12

¹²⁹ Evidence of Jeane Freeman, Transcript 13/39/12-14

¹³⁰ Evidence of Caroline Lamb, Transcript 13/60/18-25

PPE Plan, and its recognition that each nation had its “own supply chain operation”¹³¹ and were “...in particular circumstances... pursuing their own sourcing to meet their particular needs”¹³².

49. CTI explored a video call attended by *inter alia* Ms Freeman, Mr Cackette and Mr Hancock when the issue of the withdrawal of Embassy support was discussed. No response was given by Mr Hancock¹³³. Ms Freeman’s evidence was that while she did not expect a response, she had “laid down a marker”¹³⁴ and that she expected something to be done about it. Ms Freeman did not consider that this issue had a “significant direct impact, negative impact, because Scotland had colleagues in Scottish Development International located across the globe producing significant advantage to us in their local contacts”¹³⁵, as well as having NSS’ strong existing supplier relationships.
50. In the course of that same call with Mr Hancock, a second issue was raised namely reports that suppliers of PPE in England had been instructed to prioritise English NHS settings over Scotland even where contractors were contractually committed to Scottish supply. Mr Cackette’s witness statement notes that the Scottish Government was “given assurances by UKG Health and Social Care officials”¹³⁶ that these reports were not true and the Scottish Government understands this to be the case.
51. Ms Lamb was asked in evidence about her overall assessment of the effectiveness of cooperation and collaboration amongst the Four Nations respect of the procurement of PPE:

“So I think that whilst it probably started off with good intentions but being a bit tricky in practice, particularly around data sharing and around that insistence on the Department of Health sort of being in the lead around procurement, I think the relationships, the relationships at an official level were never bad but I think the ways of working together improved – I think what particularly drove that was the recognition that yes, collaboration is great, but you need to be equal partners in that collaboration and that by working

¹³¹ INQ000050008_0019 - Report from Department of Health and Social Care titled Covid-19: Personal Protective Equipment (PPE) Plan, dated 10/04/2020 at §1.53

¹³² INQ000050008_0020 - Report from Department of Health and Social Care titled Covid-19: Personal Protective Equipment (PPE) Plan, dated 10/04/2020 at §1.55

¹³³ See also INQ000512904_0022 – Witness statement of Paul Cackette at §3.41 – 3.44

¹³⁴ Evidence of Jeane Freeman, Transcript 13/31/22 – 13/32/4

¹³⁵ Evidence of Jeane Freeman, Transcript 13/31/15-19

¹³⁶ INQ000512904_0023 – Witness statement of Paul Cackette at §3.43

*together we were able to, you know, to do more by accepting everybody's roles, responsibilities, skills and expertise"*¹³⁷.

52. From this, the Scottish Government would wish to give particular emphasis to the point made by Ms Lamb as to the importance of Four Nations collaborations working most effectively when they are structured on the basis of an equal partnership, rather than one 'owned' by the UK Government to which the Devolved Administrations are simply invitees. This is because when all parties are not in an equal partnership it can lead to the situation noted by Tim Losty whereby, *"the call came in, the Scottish Government would go, Welsh Government would go, Northern Irish government would go, say their concerns, and at the end it would have been "Well, thanks very much, we'll arrange a call next week." And I felt some of the issues were more deserving of discussion and debate"*¹³⁸. Mr Losty's view was that on occasions *"UK Government came across as disinterested in working with, or hearing the concerns of the devolved administrations"*¹³⁹. Similarly Conor Murphy described the feeling, *"of getting an audience but not having any impact in terms of decision making"* in Whitehall¹⁴⁰. The Scottish Government submits that the chances of encouraging properly collaborative working and mitigating the risks identified by Mr Losty and Mr Murphy are increased when all parties enjoy parity of esteem and joint ownership of collaborative structures.
53. The Inquiry has heard evidence from Professor Manners-Bell as to what future collaboration might look like. Professor Manners-Bell gave evidence as to the desirability of having a 'control tower' overview of the complete UK inventory of PPE and equipment¹⁴¹. His written evidence also covered the establishment of a structure to allow formal communication between the UK government and the DAs on PPE¹⁴². This proposed structure would meet regularly in 'business-as-usual' times to monitor the market, and to plan for emergencies. The Scottish Government certainly recognises the benefit of a shared awareness amongst the Four Nations of supply stocks. As Ms Lamb noted, the Scottish Government would also commend any future structures having *"an enhanced NSS role"*¹⁴³, given their expertise and high performance.

¹³⁷ Evidence of Caroline Lamb, Transcript 13/69/5-17

¹³⁸ Evidence of Tim Losty, Transcript 11/181/25 – 11/182/6

¹³⁹ Evidence of Tim Losty, Transcript 11/181/15 - 17

¹⁴⁰ Evidence of Conor Murphy, Transcript 15/127/21-22

¹⁴¹ Evidence of John Manners-Bell, Transcript 5/23/21 – 5/24/18

¹⁴² INQ000474864_0132 – Statement of John Manners-Bell at 'Author Recommendation 19'

¹⁴³ Evidence of Caroline Lamb, Transcript 13/74/3

54. As noted above, the 'Strategic PPE Four Nations Board' was put in place to facilitate engagement on PPE guidance, stocks and supplies, demand modelling and communication. The Scottish Government engaged in this process in the spirit of mutual collaboration. It did share information with DHSC, but as noted above received little in return, at least prior to February 2021 and the establishment of the Four Nations PPE collaborative protocol. The Scottish Government submits that, for a structure such as the one recommended by Professor Manners-Bell to be effective and efficient, it would require each of the Four Nations to attend as equal partners. There would require to be parity of esteem. Otherwise, from a Scottish Government perspective, it would not materially improve our ability to respond effectively to a future crisis.
55. The Scottish Government adheres to its position that it is not persuaded as to the benefits of a Four Nations body tasked with procurement. While this proposal was raised with a number of witnesses, for example Mr Hancock¹⁴⁴, there appeared to be little enthusiasm for the prospect. When asked whether having a *"single pandemic plan where a single pandemic and distribution plan was agreed between all countries"* would be preferable, Ms Lamb's view was that *"the experience through the pandemic was that that arrangement didn't serve us well"*¹⁴⁵. Health and social care in Scotland is devolved, as is procurement. Innovations or alterations to Scotland's existing system of procurement should not be allowed to complicate those arrangements. The current system of procurement that draws upon NSS' expertise and knowledge of Scottish requirements is well-matched to Scotland's size, population and the close relationship that exists between the Scottish Government and Health Boards.
56. The Scottish Government agrees with Ms Freeman's general proposition that *"the devolved approach is the better approach"*¹⁴⁶. As Ms Freeman noted, the current system provides for the necessary democratic accountability that devolution demands of a Scottish Government¹⁴⁷. As Ms Freeman put it when this proposal was put to her:
- "...having a single system if all parties are not equal in that regard could lead to a situation where Scottish Ministers are accountable for actions over which they disagreed. That is not to say that we shouldn't have cooperation, we shouldn't have exchange of data, exchange of approaches, and what we did have, the mutual aid agreement, whereby we could help each other out in terms of supply of PPE where any*

¹⁴⁴ Evidence of Matt Hancock, Transcript 11/146/17 – 11/148/15

¹⁴⁵ Evidence of Caroline Lamb, Transcript 13/84/16-21

¹⁴⁶ Evidence of Jeane Freeman, Transcript 13/29/14-15

¹⁴⁷ Evidence of Jeane Freeman, Transcript 13/25/3-6

one of the four nations was particularly struggling in any regard, and we both benefitted from that and contributed to it as Scotland.”¹⁴⁸

Funding Challenges

57. As explained above, it became clear early on that DHSC could not guarantee that its procurement efforts would be able to meet the needs of Scotland, or the other Devolved Administrations. Scotland therefore had no choice but to procure its own supplies to protect its frontline workers. As Ms Lamb confirmed, this led to Scotland incurring significant costs¹⁴⁹. Importantly, these were costs over which, as Ms Lamb put it, *“the Scottish Government essentially didn’t have any cover from the Treasury for the costs being incurred”¹⁵⁰*. As Ms Lamb explained, the balance of risk favoured ensuring that Scotland had the supplies to provide appropriate and adequate PPE to the NHS, and beyond, *“in advance of having any certainty of receiving or being reimbursed for that funding from HMT”¹⁵¹*.
58. This was an issue because, as Ms Forbes’ statement put it, *“Whilst the Scottish Government can manage limited risk, funding several hundred million pounds of unbudgeted costs, without consequential funding, would have been almost impossible. Many other Governments can do that to an extent because they don’t operate within a fixed Budget. The Scottish Government, however, cannot overspend, which made these choices all the more risky”¹⁵²*.
59. As the Inquiry has heard, the issue of funding was raised in a joint letter from the Devolved Administration Finance Ministers of 12 May 2020¹⁵³, although as the statement of Ms Forbes makes clear, the *“lack of consequential funding to support procurement of PPE was raised with the Chief Secretary to the Treasury on several occasions”¹⁵⁴*. Ms Forbes explains that Mr Barclay, *“understood the issue and the risk for the Devolved*

¹⁴⁸ Evidence of Jeane Freeman, Transcript 13/25/9-20

¹⁴⁹ Evidence of Caroline Lamb, Transcript 13/63/1-5

¹⁵⁰ Evidence of Caroline Lamb, Transcript 13/64/3-5

¹⁵¹ Evidence of Caroline Lamb, Transcript 13/52/7-9

¹⁵² INQ000520825_0005 – Witness statement of Kate Forbes at §14

¹⁵³ INQ000336538 - Letter from Rebecca Evans (Welsh Government), Scottish Government and the Department for Finance to the RT Hon Stephen Barclay MP, (Chief Secretary to the Treasury) concerning a Joint DA Finance Ministers' letter to CST regarding PPE supply, dated 12/05/2020

¹⁵⁴ INQ000520825_0005 – Witness statement of Kate Forbes at §15

Governments but had to resolve the internal agreement between HM Treasury and the DHSC”¹⁵⁵.

60. Mr. Barclay was taken to a letter of 16 July 2020 in which he expressed concerns that *“the Devolved Administrations are now seeking additional funding for existing purchases via the Barnett formula”¹⁵⁶*. Mr Barclay was asked for his views on the suggestion that the DHSC would be unable to provide PPE on a whole UK basis. He said *“The issue from a Treasury perspective was we had provided sufficient funds to enable them to do so. And I think the quantum that had been delegated shows that we had provided sufficient funds.”* The Scottish Government understood Mr Barclay’s evidence to be expressing frustration not at the Devolved Administrations, but at DHSC.
61. There was, as Mr Barclay noted¹⁵⁷, constructive and collaborative working between governments to try to resolve this issue. An amicable resolution was achieved in July 2020¹⁵⁸. That said, the Scottish Government had to bear an otherwise unacceptable financial risk while a funding solution was being considered. The Scottish Government would not accept, as Ms Lamb did not, the characterisation that these concerns were resolved *“quite quickly”¹⁵⁹*, particularly not the possible implication that this was not a matter of particular importance. As Ms Forbes noted in her witness statement, it was *“an enormous risk to carry in extremely uncertain times”¹⁶⁰*.
62. In a future emergency situation, a formal mechanism to request emergency funding would provide considerably more resilience and allow for a more flexible and proactive approach. The Scottish Government would commend a recommendation that such a mechanism be established.

Generating and Processing Supply Offers – Absence of a “VIP Lane” in Scotland

63. In the early months of the pandemic, a large volume of offers were received from potential suppliers, largely in relation to PPE. These were both unsolicited offers, and responses to the Scottish Government’s appeal to businesses for support.

¹⁵⁵ INQ000520825_0005 – Witness statement of Kate Forbes at §15

¹⁵⁶ INQ000109535 - Letter from Steve Barclay (Chief Secretary to Her Majesty's Treasury) to Matt Hancock (Secretary of State for Health and Social Care) regarding COVID-19 PPE Supply and Funding Approach, dated 16/07/2020

¹⁵⁷ Evidence of Steve Barclay, Transcript 7/154/13-17

¹⁵⁸ Evidence of Caroline Lamb, Transcript 13/65/3-5.

¹⁵⁹ Evidence of Caroline Lamb, Transcript 13/65/7-10

¹⁶⁰ INQ000520825_0006 – Witness statement of Kate Forbes at §15

64. The Scottish Government Working Group set up a dedicated mailbox. This allowed potential suppliers, who were willing to assist in the pandemic response, to indicate what they could potentially supply.
65. Some 2,846 emails offering supplies to support the pandemic response were received through the Scottish Government's dedicated email address¹⁶¹. In accordance with principles of good governance, all offers were triaged, before they were passed to NSS (who made the decision on whether to award a contract). While there was a need to triage, manage and respond to these offers, there was no comparable system to the 'VIP' or 'High Priority Lane' in Scotland. When asked about whether there was a need for such a 'fast track' systems in Scotland, Mr Freeman responded quite frankly: "*Absolutely not*"¹⁶². In contrast to some evidence given about UK Government processes¹⁶³, the Scottish Government performed a triage of offers, not simply of people.
66. In about mid-April 2020 NSS developed an on-line 'portal' that automated and streamlined the process of identifying suppliers' capabilities. As Mr Beattie confirmed this became, "*in effect the single point of entry*"¹⁶⁴. A total of 2,047 offers were received by NSS, many referred from the Scottish Government, although only one progressed to securing a contract from NSS¹⁶⁵. NSS internally checked for supplier and product performance. Where new suppliers were needed or came forward with offers, the standard tried and tested NSS procedures for due diligence, quality control and pricing applied. NSS encouraged other bodies, such as Health Boards, to signpost offers to the portal to reduce duplication and concentrate efforts. NSS' established due diligence procedures were applied throughout the pandemic – as Mr Beattie put it, "*we tried to follow as close as we could do to a normal process*"¹⁶⁶. Similarly offers that came via ministerial or MSP offices, "*would come through to the same process and... would be dealt with... consistently*"¹⁶⁷. The online supplier offer portal was decommissioned on 19 June 2020.

¹⁶¹ INQ000498141_0067 – Witness statement of DG HSC at §220

¹⁶² Evidence of Jeane Freeman, Transcript 13/9/15

¹⁶³ Evidence of Lord Feldman, Transcript 7/207/16-24

¹⁶⁴ Evidence of Gordon Beattie, Transcript 13/105/13-14

¹⁶⁵ INQ000521969_0040 – Witness Statement of Gordon Beattie at §151

¹⁶⁶ Evidence of Gordon Beattie, Transcript 13/107/18-19

¹⁶⁷ Evidence of Gordon Beattie, Transcript 13/126/21 – 13/127/1

67. Mr Beattie's evidence was that the reason that only one offer via the portal progressed to a contract with NSS was that, given their use of existing suppliers, by the time they came to the portal offers, "*We had already kind of covered our demand going forward*"¹⁶⁸.
68. Of the 790 offers that passed NSS' initial checks, but were not deemed necessary for immediate health and social care requirements, the majority were passed to the Scottish Government to consider suitability for other public bodies¹⁶⁹. The Scottish Government engaged an Edinburgh-based company, SnapDragon Monitoring, to perform additional risk-based checks on these potential suppliers, such as checking whether they were established providers of PPE or whether they had a very short trading history¹⁷⁰. SnapDragon Monitoring concluded that none of the offers were risk free, and so none were progressed to contract¹⁷¹.
69. Additionally, as noted above, in March 2020 the Minister for Trade, Investment and Innovation, established the Working Group, *inter alia*, to identify potential sources of materials and equipment required for the pandemic, in particular from Scottish manufacturers¹⁷². This led to the Working Group being approached by, and contacting, potential suppliers, such as distilleries offering to make hand-sanitiser gels¹⁷³, and textile manufacturers who could produce gowns¹⁷⁴. Initially offers were received via a dedicated mailbox (as noted at §65-66 above). Prior to the creation by NSS of the on-line portal, the Working Group set up a system to triage and respond to offers¹⁷⁵, many of which were then passed on to NSS to apply their established processes, or were routed to National Manufacturing Institute Scotland for technical support. To mitigate against the inherent risks of awarding contracts to new suppliers, Scottish Enterprise and Scottish Development International carried out significant due diligence checks, such as visiting factories to see them first hand, including those based in China and the Far East¹⁷⁶.
70. Processing this large volume of offers was time consuming and, ultimately, led to a relatively small number of contracts. Most of the suppliers and manufacturers identified by the Working Group came through the established networks and account

¹⁶⁸ Evidence of Gordon Beattie, Transcript 13/108/7-8

¹⁶⁹ Evidence of Gordon Beattie, Transcript 13/106/13-14

¹⁷⁰ INQ000502043_0016 – Witness statement of DG Corporate at §48

¹⁷¹ INQ000502043_0017 – Witness statement of DG Corporate at §48 - 49

¹⁷² INQ000527716_0002 – Witness statement of Ivan McKee at §10

¹⁷³ INQ000527716_0007 – Witness statement of Ivan McKee at §26

¹⁷⁴ INQ000502043_0011 – Witness statement of DG HSC §31

¹⁷⁵ INQ000528102_0008 – Witness statement of Nicola Sturgeon at §28

¹⁷⁶ INQ000528102_0023 – Witness statement of Nicola Sturgeon at §81

management relationships of Scottish Enterprise and Scottish Development International. However, the Scottish Government considered at the time that it was important to make a public appeal to Scottish businesses for assistance, and, having done so, to respond to those offers. Having the ability to deploy an established online supplier offer portal in the future will likely be of assistance in the event of a future pandemic.

71. As far as the Scottish Government is aware, no individual or company received preferential treatment in procurement or the award of contracts. Mr Cackette¹⁷⁷, amongst others¹⁷⁸, made this point clearly in his written statement. As noted above, no concerns of fraud or conflict of interest have been identified in relation to Scottish Government procurement during the pandemic.

Emergency Trade, Strategy & Diversification of Supply Chains

72. A key issue facing procurement of key healthcare equipment and supplies was that these items were either not produced in Scotland, or at the scale required¹⁷⁹. For ICU equipment most items are reliant on global supply chains¹⁸⁰.
73. The pandemic demonstrated that 'Just in Time' contracts for PPE were not effective in an emergency situation¹⁸¹. They are not currently being considered in Scotland for use in pandemic planning. As the evidence has shown, during the pandemic the Scottish Government worked very successfully with NSS supported by Scottish Enterprise, Scottish Development International, the National Manufacturing Institute Scotland and the Scottish manufacturing sector to develop new supply chains and sources of PPE, sanitiser and equipment. As Mr Beattie described it, this *"transformed what we were doing"*¹⁸². The urgent need of the country was met, and greater self-sufficiency was created. Subsequent to the pandemic, the Scottish Government understands that NSS have diversified their supply chains, and reduced reliance where possible on single production centres.

¹⁷⁷ INQ000512904_0017 – Witness statement of Paul Cackette at §3.4

¹⁷⁸ INQ000527716_0013 – Witness statement of Ivan McKee at §49; INQ000531855_0019 – Witness Statement of Jeane Freeman at §58; INQ000528102_0021 – Witness statement of Nicola Sturgeon at §70

¹⁷⁹ INQ000520825_0008 – Witness statement of Kate Forbes at §28

¹⁸⁰ Evidence of Chris Stirling, Transcript 9/81/2-10

¹⁸¹ Evidence of Caroline Lamb, Transcript 13/70/22 – 13/71/2

¹⁸² Evidence of Gordon Beattie, Transcript 13/100/17

74. Under the Scottish Government 'Future Pandemic Preparedness Programme', a PPE Delivery Group has recently been established, to provide continuing assurance to Ministers that appropriate planning for the provision and distribution of PPE is in place across key sectors. Further, all NHS Boards now hold ICU equipment to support double ICU capacity¹⁸³.
75. The development of a domestic PPE chain was seen as a method of bolstering the resilience of Scotland's PPE supply by mitigating the risk of relying on global supply chains, particularly in a situation where exports were being stopped or interrupted by foreign governments – as Ms Freeman put it, "*a protection against future global challenge*"¹⁸⁴. At the time, some PPE items were manufactured in the UK but on a relatively small scale (with attendant cost implications), and for other items, such as nitrile gloves, financial and logistical challenges meant that domestic production was not a viable option¹⁸⁵.
76. Mr McKee was well placed to support these efforts, given his background in manufacturing and knowledge of supply chains¹⁸⁶. As noted above, Mr McKee established the Working Group, which operated between 18 March 2020 and 29 October 2020¹⁸⁷. Initially there was a particular focus on sourcing ventilators¹⁸⁸, but the Working Group was soon discussing sourcing PPE, as well as sourcing testing equipment and supplies, oxygen generating equipment¹⁸⁹ and arranging air freight logistics¹⁹⁰. The Working Group used charts to track the future supply and demand of each commodity, which allowed the group to identify where there were potential shortfalls, and then source additional supplies, thereby assisting NSS¹⁹¹.
77. The Scottish Government's Directorate for Economic Development, Scottish Enterprise, Scottish Development International and the National Manufacturing Institute Scotland all sought to facilitate effective engagement between Scotland's manufacturing supply chain and NSS¹⁹². The strategy for supporting NSS comprised two parts: (i) a 'buy'

¹⁸³ INQ000498141_0131 – Witness statement of DG HSC at §330

¹⁸⁴ Evidence of Jeane Freeman, 13/29/19-20

¹⁸⁵ INQ000527716_0015 – Witness statement of Ivan McKee at §57

¹⁸⁶ INQ000527716_0002 – Witness statement of Ivan McKee at §9

¹⁸⁷ INQ000527716_0003 – Witness statement of Ivan McKee at §11

¹⁸⁸ INQ000527716_0008 – Witness statement of Ivan McKee at §33-34

¹⁸⁹ INQ000527716_0003 – Witness statement of Ivan McKee at §11

¹⁹⁰ INQ000502043_0012 – Witness statement of DG Corporate at §34

¹⁹¹ INQ000527716_0008- Witness statement of Ivan McKee at §35-36

¹⁹² INQ000502043_0009 – Witness statement of DG Corporate at §24

strategy focussed on securing supplies rapidly on the global market, and (ii) a 'make' strategy focussed on building supply capacity within Scotland's manufacturing base¹⁹³.

78. To support the 'buy' strategy, Scottish Development International used its local knowledge, connections and expertise to: distribute lists of the products, standards and quantities required by NSS; support verification of new suppliers by checking certificates of authenticity and export licences; and make factory visits to provide further assurance. Scottish Development International also facilitated logistics solutions (e.g. by brokering engagement with freight forwarders) and, where necessary, held dialogue with overseas and UK Government officials to smooth the passage of goods through customs borders¹⁹⁴.
79. In contrast, the 'make' strategy was domestically focused. It was designed (a) to help producers understand the requirements of NSS (i.e. the volumes, timescales and product specifications of their requirements) and (b) to use the Directorate for Economic Development and Scottish Enterprise's networks to locate producers in Scotland, who had the technical capability and flexibility to expand and/or diversify their production, in order to manufacture quickly the products required. Staff in the Directorate for Economic Development, Scottish Enterprise and National Manufacturing Institute Scotland worked together to identify potential sources of materials and equipment required for the pandemic response. A major focus was on working with Scottish manufacturers to redirect or expand production of key products such as hand sanitiser, plastic aprons, gowns and medical grade face masks, all to support national requirements¹⁹⁵.
80. The 'make' strategy helped to establish, as Ms Freeman put it, "a *significant domestic supply chain in Scotland during a pandemic*"¹⁹⁶, and supported greater self-sufficiency for Scotland. These included: a hand sanitiser supply chain created at Grangemouth, using spirit from Scottish distillers and Scottish bottling capacity; a non-sterile gowns supply chain, utilising fabric that was produced in Forfar, for garment manufacture in Glenrothes and Livingston; plastic production facilities in Greenock and Dumfries that were repurposed to produce disposable aprons; visors produced in Annan; and a new supply chain for FFP3 masks that was established in the south of Scotland, using input materials that were produced in Angus¹⁹⁷. As noted above at §25, by April 2021, around

¹⁹³ INQ000502043_0010 – Witness statement of DG Corporate at §26

¹⁹⁴ INQ000502043_0012 – Witness statement of DG Corporate at §32-34

¹⁹⁵ INQ000502043_0011 – Witness statement of DG Corporate at §28-30

¹⁹⁶ Evidence of Jeane Freeman, 13/29/17-18

¹⁹⁷ INQ000502043_0011 – Witness statement of DG Corporate at §31

88% of Scotland's PPE by value (excluding gloves) was being manufactured domestically. The Scottish Government concurs with Mr Beattie's assessment that this was *"very successful"*¹⁹⁸.

81. In terms of other work on supply chain resilience, and another example of effective inter-governmental collaboration, Scottish Government officials also participated in Phase 2 of the UK Government's 'Project Defend' work. A Devolved Administrations Steering Committee was formed which focussed on increasing domestic supply chain resilience and protecting existing UK supply of products¹⁹⁹.
82. While post-pandemic demand has not been sufficient to sustain all these local suppliers continuing to produce PPE, as Ms Lamb noted Scotland is now better placed in terms of *"making sure that we've got that ability to surge supply when we absolutely... need to"*²⁰⁰.
83. The Scottish Government was not directly involved with 'Operation Moonshot', although the First Minister was briefed on it in August 2020 and kept updated on its progress and Mr McKee's Working Group, *"supported that effort where we could by identifying potential suppliers, as well as identifying testing labs and potential new testing lab locations in Scotland"*²⁰¹.
84. The 'Ventilator Challenge' was a UK Government initiative in which the Scottish Government had no direct role in policy or operation. However, Mr McKee sought information about this scheme from counterpart UK Government ministers²⁰², and members of his Working Group liaised with UK civil servants and several participating companies based in Scotland to help source materials²⁰³. One device that came out of the Ventilator Challenge, the Penlon ES02, was trialled by two Scottish Health Boards in May 2020, but based on the clinical and technical advice from the NHS Boards, it was decided by the ICU Resilience Group that these did not meet requirements²⁰⁴.

¹⁹⁸ Evidence of Gordon Beattie, Transcript 13/101/5

¹⁹⁹ INQ000527714_0122 – Statement of Andrew Mitchell at §11.43-11.45

²⁰⁰ Evidence of Caroline Lamb, Transcript 13.72/5-7

²⁰¹ INQ000527716_0010 – Witness statement of Ivan McKee at §38

²⁰² INQ000527716_0004 – Witness statement of Ivan McKee at §16

²⁰³ INQ000527716_0010 – Witness statement of Ivan McKee at §39-40

²⁰⁴ INQ000498141_0129– Witness statement of DG HSC at §323

Pandemic Stockpile and Inventory Management

85. As confirmed by Ms Freeman²⁰⁵, prior to the pandemic, Scotland owned a PPE stockpile as a portion of the Pandemic Influenza Preparedness Programme (“**PIPP**”). The PIPP was a joint planning and procurement venture by the Four Nations to ensure there was an adequate stockpile of PPE items based on a ‘Reasonable Worst Case’ scenario for an influenza pandemic. The stockpile was based on an assumed pandemic wave of 15 weeks, after which normal procurement arrangements would be predicted to have recovered²⁰⁶.
86. Scotland (as England, Wales and Northern Ireland did) owned its PPE within the PIPP stockpile, but the procurement was coordinated by Public Health England on behalf of the Four Nations²⁰⁷. Scotland’s portion of the PIPP stockpile was stored in Scotland with a supplier contracted by NSS, Stanford Logistics Ltd²⁰⁸. Demand and volumes of the PPE in the PIPP stockpile were set by the Department of Health and Social Care²⁰⁹. The Health Emergency Preparedness Resilience and Response Division, within the Scottish Government’s Health and Social Care Directorate, liaised with UK counterparts on the procurement of items into the stockpile²¹⁰. On 18 March 2020, the Scottish Government delegated to NSS the authority to use items within the stockpile to respond to the pandemic²¹¹. NSS then distributed this PPE to Health Boards and Independent Contractors. That stockpile was a vital part of the Scottish Government’s initial response to the pandemic²¹².
87. Around January 2020, NSS alerted Scottish Government officials about intelligence on the growing and competitive market for PPE²¹³. On the basis of the emerging challenge, the Scottish Government, NSS and other partners responded quickly to establish new supply routes to replenish the stockpile adequately, as explained above at §72-80. Supplies of some PPE items were stretched in the early months of the pandemic and there were some localised issues with the distribution of PPE, as noted below at §107. These challenges were, however, ultimately overcome.

²⁰⁵ Evidence of Jeane Freeman, Transcript 13/3/3 - 18

²⁰⁶ INQ000528102_0016 – Witness statement of Nicola Sturgeon at §47

²⁰⁷ Evidence of Jeane Freeman, Transcript 13/3/22 – 13/4/3

²⁰⁸ INQ000521969_0016 – Witness statement of Gordon Beattie at §52

²⁰⁹ Evidence of Gordon Beattie, Transcript 13/93/12-16

²¹⁰ INQ000528102_0016 – Witness statement of Nicola Sturgeon at §48

²¹¹ INQ000498141_0008 – Witness statement of DG HSC at §20

²¹² INQ000528102_0026 – Witness statement of Nicola Sturgeon at §96

²¹³ Evidence of Jeane Freeman, Transcript 13/5/17-21

88. It is important to note that while in April 2020 stocks of PPE were low, these were stocks that were held centrally²¹⁴. In other words, PPE was being sent out to health boards as quickly as could be managed. As was explained throughout Module 3 and the evidence of Ms Freeman in Module 5, Scotland did not “run out” of PPE at any point²¹⁵. That said, Ms Lamb recognised that the available PIPP stockpile was not big enough to deal with a pandemic of the nature experienced²¹⁶. She noted that there was limited opportunity to rotate PPE within the stockpile which resulted in some stock going out of date²¹⁷. However, she was comfortable with the process to revalidate that stock and the Scottish Government was clear that it was not going to deploy stock that was not revalidated²¹⁸.
89. As part of the ‘lessons learned’ work carried out by the Scottish Government, NSS and other public sector bodies, there have been considerations around NSS leading procurement efforts in response to future surge stock requirements for health and social care and other sectors. In May 2022, the PPE Supply Implementation Board replaced the PPE Strategy and Governance Board in providing governance for the work of the PPE Team²¹⁹. The Supply Implementation Board’s aim was to deliver robust cross-sectoral pandemic PPE provision in Scotland, to ensure a resilient supply is in place ahead of any future pandemic via the Future Pandemic PPE Implementation Project²²⁰.
90. There are high level proposals regarding access to the national PPE buffer stocks for health and social care and essential public service organisations during a health emergency. Further, plans are being developed to enable relevant public sector organisations with high use of “business as usual” PPE, to access PPE in both emergency and day-to-day situations on a collaborative procurement basis²²¹.
91. Looking to the future, Scotland now has an increased stockpile holding, based on a 12-week peak demand level, based on the levels of PPE used in the Covid-19 pandemic, rather than on the assumed requirements of a flu pandemic²²². This was based on a “key lesson” learned by the Scottish Government²²³. There are also plans for the

²¹⁴ INQ000108737_0012 - Report from Audit Scotland titled Covid-19 Personal Protective Equipment, dated June 2021 – Exhibit 4 (Note)

²¹⁵ Evidence of Jeane Freeman, Transcript 13/14/24

²¹⁶ Evidence of Caroline Lamb, Transcript 13/70/12 – 21

²¹⁷ Evidence of Caroline Lamb, Transcript 13/50/4-13

²¹⁸ Evidence of Caroline Lamb, Transcript 13/50/18-21

²¹⁹ INQ000498141_0017 – Witness statement of DG HSC at §42

²²⁰ INQ000498141_0020 – Witness statement of DG HSC at §49

²²¹ INQ000498141_0189 – Witness statement of DG HSC at §482

²²² Evidence of Caroline Lamb, Transcript 13/72/1-3

²²³ Evidence of Caroline Lamb, Transcript 13/51/2-12

increased rotation of NSS PPE pandemic stockpiles through everyday NHS usage. This will increase resilience and reduce waste²²⁴.

92. The Scottish Government recognises the importance of comprehensive and reliable data. As Ms Freeman said in evidence, the Scottish Government accepted that the quality of data (on a variety of matters) needed to be improved²²⁵. An Inventory Management System was discussed early in the pandemic when it became apparent that there was not clear visibility of the level of PPE stock within Health Boards or across Scotland. In March 2023, such a system was rolled out across all Health Boards. It currently provides Boards with, as Mr Beattie put it, “*eyes on to actual stock levels across all of our hospitals*”²²⁶, with information on costing and clinical variation being rolled out presently.
93. In relation to ICU equipment, Ms Lamb noted that there was not “*systematic visibility*” on the precise locations and types of equipment being used²²⁷. However, by September 2025, a national Medical Equipment Management System will be operational²²⁸. This will provide national oversight of Scotland’s NHS medical equipment inventory, thereby improving patient safety and outcomes.

Distribution and Logistics

94. In March 2020, the Scottish Government temporarily expanded the remit of NSS to provide PPE to primary care providers and social care settings, at a time when they were unable to source increased amounts of PPE from their regular private suppliers. This was done for social care primarily via a series of localised ‘hubs’, with the aim thereafter of local distribution. As noted above, in April 2020, the Scottish Government created a PPE Directorate, which assisted the Scottish Government in the co-ordination of a range of PPE delivery aspects. This included: supporting procurement arrangements for PPE outwith NSS, supporting formalisation of supply arrangements for PPE to primary care independent contractors and social care providers, co-ordinating offers of PPE supply from private bodies, and advising Scottish Government officials as to the implications on policy decisions relating to PPE²²⁹.

²²⁴ INQ000498141_0189 – Witness statement of DG HSC at §482

²²⁵ Evidence of Jeane Freeman, Transcript 13/45/2-3

²²⁶ Evidence of Gordon Beattie, Transcript 13/97/22-24

²²⁷ Evidence of Caroline Lamb, Transcript 13/75/20-21

²²⁸ Evidence of Caroline Lamb, Transcript 13/79/5-10

²²⁹ INQ000512904_0003 – Witness statement of Paul Cackette at §1.12

95. NSS was responsible for the procurement, storage, distribution and daily management of PPE stock and ICU equipment, such as rotation and disposal. Their pre-existing responsibility had been focused on Health Boards. Pre-pandemic, primary care independent contractors (GPs, Dentists, Community Pharmacists and Community Optometrists) sourced their own PPE. As noted above, this provision was temporarily taken over by NSS in the early stages of the pandemic²³⁰. With changes to the guidance that resulted in greater demand for PPE, along with a reduced global supply, the Scottish Government's Health Emergency Preparedness Resilience and Response Division co-ordinated the distribution of small and initial amounts of PPE to all GP surgeries in Scotland from the national PIPP stockpile²³¹.
96. As Mr Beattie said in evidence, NSS initially distributed PPE to Health Boards and independent primary care contractors via a 'push' model, whereby NSS determined the amount that should be provided, after consultation with the relevant Scottish Government policy officials²³². This model allowed PPE items that were under the greatest pressure to be deployed efficiently and reduced the administrative burden on the recipient services²³³. The 'push' model continued until February 2021. A 'pull' model was later adopted which allowed services to request the items they needed via an online portal, all managed by NSS. This was done to minimise the risk of over stocking or short supply at a contractor level²³⁴.
97. Prior to the pandemic, care homes procured their own PPE. Neither the Scottish Government, nor NSS, assumed direct responsibility for the procurement of PPE for the care sector²³⁵. As Ms Freeman said in her evidence, as soon as difficulties with the social care sector accessing the type and quantity of PPE that they required were raised with her, the Scottish Government acted "*quickly to ensure that we could be the supplier of that PPE*"²³⁶ to the social care sector²³⁷. Thus, early into the pandemic, the Scottish Government worked with NSS to "stand up" NSS services to devise a delivery model for supplying PPE to social care providers (and unpaid carers) where normal supply routes had failed. Social care providers could, of course, still purchase their own supplies outwith this model and recoup pandemic-related PPE costs from SG funding through

²³⁰ INQ000528102_0005 – Witness statement of Nicola Sturgeon at §19

²³¹ INQ000498141_0030 – Witness statement of DG HSC at §83

²³² Evidence of Gordon Beattie, Transcript 13/98/15-17

²³³ INQ000498141_0029 - Witness statement of DG HSC at §78

²³⁴ INQ000498141_0032 - Witness statement of DG HSC at §87

²³⁵ INQ000512904_0026 – Witness statement of Paul Cackette at §3.62

²³⁶ Evidence of Jeane Freeman, Transcript 13/23/8-10

²³⁷ Evidence of Jeane Freeman, Transcript 13/23/5-11

Local Mobilisation Plans and in line with the COSLA/SG Principles for Sustainability Payments to Social Care Providers during Covid-19²³⁸.

98. There was an initial meeting between NSS and the Scottish Government on Friday 13 March 2020. Expert staff were involved in devising a service over the weekend. By Monday 16 March, there was an initial ‘kick-off’ meeting. By Wednesday 18 March, systems were set up and by Thursday 19 March, a call centre was set up²³⁹. The first distribution of PPE to the care sector hubs began around this time²⁴⁰. As Ms Freeman put it in her evidence, “*NSS responded very quickly and very collegiately*” to supply the social care sector²⁴¹.
99. By 30 March 2020, 48 local PPE Hubs were established to provide PPE supplies to priority care providers on an anticipatory basis. PPE accessed from the Hubs was provided free of charge²⁴². In addition, on 17 April 2020 the Scottish Government announced that NSS would provide a ‘one-off’ top up of supplies to all care homes. The local PPE Hubs expanded their provision to support the whole social care sector with all its PPE needs where normal supply routes had failed, and also extended their support to unpaid carers and social care personal assistants with PPE needs. The top up deliveries started on Sunday 19 April 2020²⁴³ and NSS transitioned to direct delivery to care homes (1100 homes in total)²⁴⁴. In Mr Cackette’s view, the “*successful implementation of direct supply stabilised by allowing a “reset” of hub arrangements and brought concerns about supply of PPE to public and private nursing and care homes to an end in terms of the previous difficulties. No need arose to initiate a further one-off or series of one-off direct supplies*”²⁴⁵.
100. The PPE Hubs were supplied by NSS, with governance arrangements set out in a Memorandum of Understanding which was co-signed by Scottish Government, COSLA, NSS, Health and Social Care Partnerships, the Coalition of Care Providers Scotland, Scottish Care and National Carer Organisations²⁴⁶.

²³⁸ INQ000498141_0034 – Witness statement of DG HSC at §94

²³⁹ Evidence of Gordon Beattie, Transcript 13/130/10-20

²⁴⁰ INQ000521969_0026 – Witness statement of Gordon Beattie at §3.64

²⁴¹ Evidence of Jeane Freeman, Transcript 13/23/10–11

²⁴² INQ000498141_0034 – Witness statement of DG HSC at §94

²⁴³ INQ000521969_0025 - Witness statement of Gordon Beattie at §95

²⁴⁴ INQ512904_0029 - Witness statement of Paul Cackette at §3.79-3.83

²⁴⁵ INQ512904_0030 - Witness statement of Paul Cackette at §3.85

²⁴⁶ INQ000498141_0032 – Witness statement of DG HSC at §89

101. As noted above at §27, from April 2020, frontline staff were able to raise issues with the quantity or quality of PPE available to them, via the dedicated PPE Supply 'Helpline'. Having formed the "Single Point of Contact" strategic group around this time²⁴⁷, by July 2020, all Health Boards had in place, at the instance of the Scottish Government, a nominated "Single Point of Contact" (or SPoC) for PPE²⁴⁸. These individuals were responsible for managing PPE supply in their Health Board and were in place to resolve issues or concerns, and to be notified if the normal process and distribution was not working well. As Mr Beattie said in evidence, having the Single Point of Contact group allowed NSS to really understand where the hot spots were, and was a *"really good mechanism to have joined-up working"*²⁴⁹.
102. Between April 2020 and August 2020, Ms Freeman received daily reports on the status of PPE stocks by location and item²⁵⁰, and weekly reports with information on the number of emails received, the number responded to, the number of outstanding responses and the median number of days a response had taken²⁵¹.
103. As noted above, NSS were primarily responsible for the logistics and distribution of PPE in Scotland. However, the Scottish Government did assist with air freight, for example in respect of PPE from China flown direct to Prestwick Airport. This contract was arranged by SPPD with Keuhne+Nagel, and NSS then collected the stocks from the freight carrier²⁵².
104. The Scottish Government noted the evidence of Major General Prosser about, as the Chair put it, the *"critical role"*²⁵³ of the military in unblocking a PPE network in England that had become *"jammed"*²⁵⁴. While deployment of the Army was considered for delivering PPE in Scotland, it ultimately was not considered necessary. The capacity of NSS to deliver and distribute throughout Scotland did not in itself become sufficiently acute to require MOD assistance – although the Army did work with NSS to offer system improvements to their logistics operations²⁵⁵. NSS' national distribution centre operated

²⁴⁷ Evidence of Gordon Beattie, Transcript 13/98/18-21

²⁴⁸ INQ000531855_0016 – Witness statement of Jeane Freeman at §49

²⁴⁹ Evidence of Gordon Beattie, Transcript 13/98/25 - 13/99/7

²⁵⁰ INQ000531855_0023 – Witness statement of Jeane Freeman at §74

²⁵¹ INQ000531855_0024 – Witness statement of Jeane Freeman at §79

²⁵² INQ000502043_0015 – Witness statement of DG Corporate at §43

²⁵³ Evidence of Philip Prosser, Transcript, 15/179/20

²⁵⁴ Evidence of Philip Prosser, Transcript, 15/138/9-13

²⁵⁵ INQ000512904_0034 – Witness statement of Paul Cackette at §3.110

from one, centrally located base at Larkhall, but Scotland's distribution network did not suffer from the same issues of "*clogging*" that Major General Prosser described²⁵⁶.

105. Scotland is, of course, geographically distinct from other parts of the UK, and with a higher proportion of remote settlements, but NSS never reached a point where they became entirely over-stretched²⁵⁷. The procurement community in Scotland is small, as Mr Beattie noted, and everyone worked "*really well with each other and everybody did everything they possibly could to support*"²⁵⁸. NSS supplied 100% of the hospitals in Scotland, as Mr Beattie confirmed, and approximately 80% of the items used every day in hospital departments came from NSS' national distribution centre²⁵⁹.
106. The Scottish Government received various offers from public and private entities to assist, often free of charge, with the distribution of PPE²⁶⁰. The Scottish Government notes the conclusion of Nigel Boardman that such *pro bono* offers should be avoided²⁶¹. While these offers were appreciated, they were not ultimately taken up.
107. Logistics was an ongoing challenge and there were initially some issues with the availability and distribution of PPE. For example, the PPE Team were aware of logistical issues associated with supplying island communities. One incident of delayed PPE delivery to an island location was brought to the PPE Team's attention, but this was swiftly resolved by NSS²⁶². Overall, Scotland was fortunate to have the benefit of NSS' expertise in distribution and logistics at its disposal during the pandemic.

Purchasing, Excess Stock, Waste & Disposal

108. It goes without saying that there was a vast increase in demand for healthcare related equipment and supplies during the pandemic. For example, from February 2020 to the end of the year there was a 350% increase in demand for PPE overall, compared to 2019²⁶³. In August 2021, the Scottish NHS used three million FRSMs *per day*, equivalent to the annual demand of 2019²⁶⁴. Given this increase in demand, the

²⁵⁶ Evidence of Philip Prosser, Transcript, 15/140/10-18

²⁵⁷ INQ000512904_0048 – Witness statement of Paul Cackette at §5.33

²⁵⁸ Evidence of Gordon Beattie, Transcript 13/124/13-19

²⁵⁹ Evidence of Gordon Beattie, Transcript 13/122/4-7

²⁶⁰ INQ000512904_0020 – Witness statement of Paul Cackette at §3.27

²⁶¹ INQ000055888_00011 - Independent Report by Nigel Boardman, titled Boardman Review of Cabinet Office Communications Procurement, dated 08/12/2020 at §25

²⁶² INQ000498141_0016 – Witness statement of DG HSC at §40

²⁶³ INQ000528102_0024 – Witness statement of Nicola Sturgeon at §86

²⁶⁴ INQ000498141_0063 – Witness statement of DG HSC at §201

uncertain trajectory of the pandemic, and the need to consider potential reasonable worst case scenarios, there was always a likelihood that there would be excess stock. In light of these uncertainties, it would be unreasonable to suggest that procurement that led to excess stock was 'unnecessary' procurement²⁶⁵. Certainly, any government would rather be left with a small excess than the reverse. Moreover, it reflects the effectiveness of other strategies to minimise the impact of the virus, meaning the reasonable 'worst case' scenarios were not reached.

109. During the pandemic, a total of 209 contracts were awarded by NSS for the supply of PPE, medical equipment (including ventilators) and items relating to PCR and testing, at a total combined contract value of £588,950,344. Of the 209 contracts, 54 were secured through existing frameworks or with modifications to an existing framework. The remaining 155 contracts were secured through Direct Awards²⁶⁶. As noted above at §18, the Scottish Government incurred costs of around £252.36m (after accounting adjustments) relating to PPE in 2020/21 and 2021/22²⁶⁷.
110. The Scottish Government noted the evidence of Mr Marron, and the figures that were put to Lord Agnew, as to what CTI described as the "*enormous scale of waste*" at a UK Government level²⁶⁸. In Scotland, between 2019/2020 and 2023/24, the total value of stock written off, as reported by NSS, amounts to £2.55m on testing kits, £13.93m on PPE, £1.56m on medical equipment and consumables, £0.22m on anti-virals, plus £0.72m in storage costs²⁶⁹. This comes to just under £19m. This means the write off is around 3% of the total value of NSS' spend, which, it is noted, is comparable to the figure produced by NHS Wales Shared Services Partnership²⁷⁰. It is submitted that, given the difficult circumstances and uncertainty faced, this, while not desirable, is not unreasonable.
111. There were sometimes specific reasons that particular items of stock were not used at the expected rate when procured. For example, when NSS procured FRSM masks, Health Boards were asked for their preference on the split between tie-back and ear loop masks. Their response indicated that a split of '20% tie backs to 80% ear loops' was preferred. NSS procured masks on this basis. In the event, the use of tie-back

²⁶⁵ INQ000528102_0024 – Witness statement of Nicola Sturgeon at §87

²⁶⁶ INQ000521969_0041 – Witness statement of Gordon Beattie at §154

²⁶⁷ INQ000498141_0182 – Witness statement of DG HSC at §450

²⁶⁸ Evidence of Lord Agnew, Transcript 10/148/4-23

²⁶⁹ INQ000521969_0029 – Witness statement of Gordon Beattie at §113-114

²⁷⁰ Evidence of Jonathan Irvine, Transcript 14/136/11-21

masks did not prove popular and their use was considerably under the requested 20%²⁷¹.

112. Where PPE stock was assessed by NSS and the Scottish NHS to be unlikely to be used in health and social care settings, efforts were made to direct it to other parts of the public sector, to donate it internationally, or to recycle it where possible²⁷². A short life working group (“**SLWG**”) was set up to this end. The SLWG provided advice on strategies to reduce the overall stock of PPE identified by NSS as no longer required, as well as conducting work to make sure that these strategies were carried out effectively. The SLWG worked to the principles that provision of surplus PPE stock should be on a ‘need’ basis, rather than being driven by the availability of surplus stock. Where there was surplus stock for which demand could not be identified, or which could no longer be used (due to expiry date/quality concerns), it should be disposed of in a manner which minimised environmental damage and economic loss²⁷³.
113. The group oversaw several significant donations of PPE stock to public sector and charitable organisations in Scotland. In August 2021, the Cabinet Secretary for Health, Mr Yousaf, approved the shipment of around 26 million units of PPE under the ‘NHS Scotland Global Citizenship Programme’, to Scotland’s international development partner countries in Malawi, Zambia and Rwanda²⁷⁴.
114. Regarding reusable PPE, early in the pandemic, NSS purchased a large order of reusable gowns. This was largely as a way of insuring against failure of PPE supplies. A small review of the gowns was carried out, and it was found that after an initial surge in uptake, usage reduced to almost zero due to practicalities relating to laundering the gowns, and users in some areas reporting that the gowns were heavy and hot to wear²⁷⁵.
115. In March 2021, a Small Business Research Initiative competition was launched for cleaning and reuse of PPE and environmental decontamination. The competition was coordinated by NHS Tayside and funded by the Scottish Government, with additional contribution from Transport Scotland. Stage 1 of this initiative helped develop products but did not take them as far as becoming medically and commercially approved. The initiative highlighted some of the key issues that both companies and NHS Boards in Scotland face when wishing to introduce and procure reusable PPE. One of the main

²⁷¹ INQ000498141_0063 – Witness statement of DG HSC at §202

²⁷² INQ000498141_0064 – Witness statement of DG HSC at §205

²⁷³ INQ000498141_0064 - Witness statement of DG HSC at §207 - 209

²⁷⁴ INQ000528102_0025 - Witness statement of Nicola Sturgeon at §89

²⁷⁵ INQ000498141_0061 – Witness statement of DG HSC at §195

issues was the decontamination of the PPE and the need for nationally adopted standards²⁷⁶.

Regulation & Inspection

116. The regulation of medical devices is reserved to the UK Government. Similarly, the COSHH regulations relating to the use of PPE are reserved and fall within the remit of the Health and Safety Executive (“HSE”). The Directorates for Health and Social Care are not aware of the Scottish Government liaising directly with the regulatory bodies who were responsible for setting the standards for PPE in Scotland during the pandemic²⁷⁷. Jeane Freeman’s statement confirms that she did not make any changes to regulatory regimes relating to procurement of key health care equipment and supplies during the pandemic²⁷⁸.
117. One issue of regulatory matters with which the Scottish Government did have some involvement concerned whether to continue the ‘easements’ relating to PPE CE marking. In March 2020, European Commission ‘Recommendation’ (2020/403) was issued, which contained a number of temporary arrangements (referred to as ‘easements’) to facilitate PPE supply during the pandemic. Put short, this allowed PPE that did not have a “CE mark” to be placed into the European market. However, this ‘non-CE’ PPE (or ‘eased PPE’) still required to adhere to the relevant safety requirements and meet the approval of the HSE. As a consequence of the UK exiting the EU, as of 1 January 2021 Recommendation 2020/403 did not carry over into domestic law. England and Wales had moved to replicate these easements by regulations²⁷⁹.
118. The Scottish Government accepted that regulatory alignment was, of itself, desirable. However, NSS had not used the easement arrangements to procure ‘eased PPE’ for Health and Social Care use and, in late 2020, had around four months’ worth of CE marked PPE in stock. Mr Beattie confirmed in his evidence that *“all of the PPE sourced by NSS met those regulatory standards, was manufactured in accordance with international standards, and held the necessary certification including CE marking”*²⁸⁰.

²⁷⁶ INQ000498141_0061 - Witness statement of DG HSC at §190 - 193

²⁷⁷ INQ000498141_0077 - Witness statement of DG HSC at §255

²⁷⁸ INQ000531855_0020 – Witness statement of Jeane Freeman at §61

²⁷⁹ INQ000498141_0075 – Witness statement of DG HSC at §247 - 249

²⁸⁰ Evidence of Gordon Beattie, Transcript 13/109/18-23

119. All the PPE purchased through the Scottish Government's Lyreco framework for non-health and social care provision was also CE marked. It was, however, difficult to estimate the potential prevalence of non-CE marked PPE in the private sector. There was also uncertainty about the trajectory of the pandemic. It was considered that easements might allow new products to be tested and enter the market more easily, without a risk to quality of safety, given that the same HSE standards had to be met²⁸¹.
120. On balance, the Scottish Government considered that regulations should be made and these came into force on 1 February 2021²⁸². It was not necessary to extend the easement regulations after the 31 June 2021 expiry date. NSS did not need to make use of the easement arrangements and in June 2021 still had at least a four month stockpile of all types of PPE for the use of all Scottish NHS services, all of which was CE marked²⁸³.

Equalities

121. Initially, there were issues around the fit of PPE during the pandemic. This topic was canvassed extensively in Module 3. Those included face-fitting of specific types of masks, specifically FFP3, which impacted on staff with smaller and differing face shapes and had a particular impact on women, people from ethnic minorities and those who had facial hair (including for religious reasons). As Prof Sir Gregor Smith noted in his Module 3 evidence, in June 2020 the Scottish Government established an '*Expert Reference Group on COVID-19 and ethnicity*', to understand better not only the impact on Black, Asian and ethnic minority people, but also some of the broader impacts that related to ethnicity across society. As Ms Freeman said in her evidence, in Scotland, there was a "*group representing the BAME community and also involving the unions, of course, that were advising us both on fit and also cultural appropriateness of PPE and PPE guidance requirements, and we used their advice to inform through our Chief Nursing Officer the various guidance on infection prevention and control*"²⁸⁴.
122. The Scottish Government also worked with NSS to support rolling out face-fit testing to Health Boards. Funding was provided to NSS to enable them to procure 20 'TSI Portacount' devices, a quantitative fit-testing device that produces direct face-fitting

²⁸¹ INQ000498141_0075 – Witness statement of DG HSC at §249

²⁸² INQ000498141_0076 – Witness statement of DG HSC at §250

²⁸³ INQ000498141_0077 – Witness statement of DG HSC at §254

²⁸⁴ Evidence of Jeane Freeman, Transcript 13/42/8-14

numerical results²⁸⁵. The Scottish Government maintained regular contact with Health Boards and received updates from NSS in respect of their work with Arco Ltd, who were contracted to provide face-fit testing services²⁸⁶. In October 2020, there were eight dedicated face-fit testers, and by March 2021 this had increased to 35. As Ms Lamb said in her evidence, prior to the pandemic around 7,000 members of staff were fit-tested and by around 2023, it was around 75,000 members of staff²⁸⁷.

123. The Chief Nursing Officer worked with the PPE Directorate to ensure there were a variety of PPE options available to staff, and shared intelligence from Health Boards on face-fit issues at weekly PPE meetings. The Scottish Government's PPE Team would take this information and use it to operationalise improvements, such as commissioning Alpha Solway to produce smaller face masks and enabling health boards to access Jupiter hoods and parts²⁸⁸. This was to ensure that the specification of masks better recognised the demographic of health care staff and resulted in a greater range of appropriate fitting PPE to be issued²⁸⁹.
124. Collaborative working between Alpha Solway, the Scottish Government, NSS and Scottish Enterprise led to the production of FRSM masks, visors and FFP3 masks. As Mr Cackette said in evidence, when the extent of "*home-grown supply was expanded*", through various sources such as Alpha Solway and Honeywell, there was more capacity for NSS to mandate that better fitting equipment be provided.²⁹⁰ As noted above, the 'PPE Action Plan' recognised the challenges faced in particular by female and ethnic minority healthcare workers and detailed the ongoing work to resolve this issue. A small scale study carried out, in relation to Alpha Solway FFP3 masks, in late 2020, in which 90% of participants were female, showed that the overall 'fit pass rate' was 81.5%²⁹¹. Where there was a range of sizing options available for PPE items, NSS bought and made available a wide range of sizes. NSS were providing at least eight different models of FFP3 masks by March 2021 and four sizes of nitrile gloves. NSS also managed to source transparent masks which allowed people who required it to see lips moving²⁹².
125. As Mr Beattie said in his evidence, there is a commission from the Scottish Government to NSS to consider the forward look of FFP3 fit testing and to build a database of fit

²⁸⁵ INQ000498141_0055 - Witness statement of DG HSC at §162

²⁸⁶ INQ000498141_0055 - Witness statement of DG HSC at §165

²⁸⁷ Evidence of Caroline Lamb, Transcript 13/87/25 - 13/88/2

²⁸⁸ INQ000502216_0008 – Witness statement of Fiona McQueen at §27

²⁸⁹ INQ000502216_0008 – Witness statement of Fiona McQueen at §27

²⁹⁰ Evidence of Paul Cackette, Transcript 13/167/1-7

²⁹¹ INQ000498141_0057 – Witness statement of DG HSC at §174

²⁹² Evidence of Gordon Beattie, Transcript 13/133/13-15

requirements. In turn, this will inform NSS of the type of the products to hold in stock²⁹³. Further, in each category of PPE where procurement frameworks are to be put in place in Scotland, equality impact assessments are done and there are subject-matter experts in each category to inform NSS colleagues what to put into specifications²⁹⁴.

Conclusion

126. In closing, it is respectfully submitted that the evidence in this Module, both written and oral, has shown that throughout the pandemic the Scottish Government collaborated, innovated and forged relationships which helped it to respond effectively to the challenges of procuring and distributing key healthcare supplies to the frontline and beyond. It has also learned valuable lessons, some of which have already been translated into positive action.

127. The Scottish Government would once again wish to pay tribute to all its partners, with whom it worked and strove to keep the people of Scotland safe, through the provision of essential supplies and equipment.

2 May 2025

G. D. Mitchell, KC
Julie McKinlay, Advocate
Michael Way, Advocate
Amelia Mah, Advocate

Counsel for the Scottish Government
Instructed by Caroline Beattie, Scottish Government Legal Directorate

²⁹³ Evidence of Gordon Beattie, Transcript 13/132/13-17

²⁹⁴ Evidence of Gordon Beattie, Transcript 13/134/16-24