

## UK COVID-19 INQUIRY

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### WRITTEN CLOSING STATEMENT ON BEHALF OF THE UNITED KINGDOM HEALTH SECURITY AGENCY FOR MODULE 5

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#### 1. INTRODUCTION

- 1.1. The UK Health Security Agency (“UKHSA”) is an executive agency of the Department for Health and Social Care (“DHSC”), operational from 1 October 2021 and carries out certain statutory functions on behalf of the Secretary of State for Health and Social Care. It brings together scientific and commercial expertise from predecessor organisations including Public Health England (“PHE”) and NHS Test & Trace (“NHSTT”).
- 1.2. UKHSA is both an operational and scientific agency. Its role is to protect the public from infectious diseases as well as external hazards to health including chemical, nuclear and environmental threats. As the Inquiry is aware, it does so in the context of the funding priorities set by elected decision makers. Within that framework, and with a focus on those matters that fall within the scope of Module 5, UKHSA has aimed and continues to aim its work at developing and maintaining baseline capabilities that are adaptable, capable of being scaled up rapidly, and, in its pandemic work, takes into account a wider range of scenarios led by scientific expertise and informed by international collaboration.
- 1.3. This module has investigated the *“procurement and distribution [of] key healthcare related equipment and supplies”*. As regards UKHSA and its predecessor organisations, this has meant a focus on the procurement and distribution of testing technologies, in particular Polymerase Chain Reaction (“PCR”) and lateral flow device (“LFD”) tests.<sup>1</sup> This is an area where science and the commercial function cannot and should not be separated. Given that testing will be investigated further in Module 7, this closing statement focuses on the commercial function. For UKHSA, that function (“UKHSA Commercial”) extends in any event to the procurement of other medical countermeasures as well as vaccines.

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<sup>1</sup> For an explanation of the science behind different testing technologies see UKHSA Science and Technical Statement INQ000518354.

1.4. As with its opening statements and oral closing statement, this statement therefore addresses the following themes here:

1.4.1. Capable commercial systems.

1.4.2. Transparency.

1.4.3. Partnerships.

1.5. Before discussing these three themes further, it is useful to consider two linked principles which provide important context:

1.5.1. The need for pathogen agnostic systems; and

1.5.2. Building and maintaining baseline capacity.

## **2. PATHOGEN AGNOSTICISM**

2.1. It is perhaps an obvious but nonetheless vital point that the characteristics of pathogen X, for example its primary route of transmission, and the ability to use pre-existing treatment and testing options, will influence the speed and nature of any pandemic response, including from a commercial perspective.

2.2. The need therefore to develop pathogen agnostic systems is a point that UKHSA has made in previous modules. Using testing as an example, the tests that were effective to confirm SARS-CoV-2 may not be the same for a novel pathogen X. The necessary components of an end-to-end testing service, such as sample collections kits, or the logistical infrastructure to deliver tests may be found to be redundant at the point of use, regardless of the intervening costs of stockpiling or retention respectively.

2.3. Developing agile and scalable systems responsive to a future pandemic presents particular challenges when it comes to procurement.<sup>2</sup>

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<sup>2</sup> Fourteenth Witness Statement of Sir Christopher Wormald (Permanent Secretary of the Department of Health and Social Care), INQ000571763\_058, ¶197; UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_080, ¶8.3-8.4.

### 3. BASELINE CAPACITY

- 3.1. The limitations of pre-pandemic planning saw the building of systems and infrastructure during the pandemic from scratch and in real time with witnesses explaining “*we were essentially starting from scratch*”<sup>3</sup>; “*we built a new process live*”;<sup>4</sup> “*we had to build the aeroplane as we were flying it*”.<sup>5</sup> The need to scale the procurement and delivery of widespread testing at pace resulted in the creation of an entirely new organisation in the form of NHSTT. However, maintaining an “*always on*” system (with healthcare, commercial, research and logistic elements) capable of responding to a wide range of public health scenarios is a costly exercise. As the UK emerged from the pandemic, elected decision makers came to the view that maintaining a full system such as was delivered during the pandemic was not justifiable.
- 3.2. The bringing together of PHE and NHSTT into UKHSA was intended to leave the UK better prepared for a future pandemic. The decision offered an opportunity to create a new organisation with developed and developing baseline capability across relevant public health disciplines. Baseline capability here means having a threshold from which a response can be scaled as circumstances demand. In developing that capability, UKHSA seeks to ensure that it has flexible and scalable systems in place.
- 3.3. UKHSA continues to build baseline capacity across several areas of the organisation, including its commercial function. For government commercial teams (“Commercial”) that baseline capability is about having (i) a workforce with expertise in public procurement (and, where the procurement of diagnostics, countermeasures and vaccines is concerned, expertise in public health), (ii) established procedures and digital systems, and (iii) a thorough understanding of the market.

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<sup>3</sup> Lord James Bethell of Romford (Parliamentary Under Secretary of State for Technology Innovation and Life Sciences), 19/03/2025 [11/8/18-19 - 11/9/1-2].

<sup>4</sup> Jonathan Marron (Director General of Primary Care and Prevention, DHSC), 05/03/2024 [3/183/23-24].

<sup>5</sup> Andrew Wood (Deputy Director, Commercial Specialist, Cabinet Office), 06/03/2025 [4/164/18-19]; The Right Honourable Lord Feldman of Elstree (Volunteer assisting with emergency procurement), 12/03/2025 [7/183/7-8].

## 4. CAPABLE COMMERCIAL SYSTEMS

- 4.1. Capable commercial systems involve a skilled commercial workforce, established but adaptable processes for the work, and appropriate digital systems.

### Commercial Process

#### The Unique Challenges of Testing

- 4.2. The procurement of tests had some advantages over the procurement of other key healthcare equipment and/or supplies. As the diagnostics industry was (and is) a specialist one, it was easier for expert Commercial professionals to dismiss an unrealistic offer.<sup>6</sup> As Dr Beverley Jandziol<sup>7</sup> explained, the “*challenge [the industry] had is it is so technical and...it's not like it's a product that if it's got a stamp you can use it. It has to be technically compatible with the platforms we have. You have to have every single item for it to function.*”<sup>8</sup> Clinical evaluation of proposed innovative offers for tests was in-depth, subject to scientific criteria,<sup>9</sup> and undertaken blind.<sup>10</sup> This meant that the “Testing Commercial Team” (within DHSC)<sup>11</sup> and the subsequent commercial teams in NHSTT and UKHSA responsible for procuring COVID-19 tests were able to minimise conflicts of interest.<sup>12</sup>
- 4.3. Equally, there were challenges unique to procurement in respect of COVID-19 testing. Thus, despite the exceptional speed with which PHE and its collaborators were able to develop the COVID-19 PCR assay that underpinned all commercial<sup>13</sup> COVID-19 PCR tests, procurement of laboratory (“lab”) based testing capacity during the pandemic needed to surmount multiple hurdles.

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<sup>6</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_031, ¶4.48; Witness Statement of Dr Beverley Jandziol, INQ000562340\_064, ¶150.

<sup>7</sup> A procurement specialist deployed from Cabinet Office into NHSTT.

<sup>8</sup> Dr Beverley Jandziol, 13/03/2025 [8/138/21 - 8/139/5].

<sup>9</sup> UKHSA Science & Technical Statement, INQ000518354\_016, ¶3.19, INQ000518354\_026, ¶4.16-4.18, INQ000518354\_031, ¶4.39-4.41.

<sup>10</sup> Sarah Collins (Commercial Director, UKHSA), 13/03/2025 [8/82/13-18].

<sup>11</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_014, ¶3.23.

<sup>12</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_014, ¶3.25; Witness Statement of Dr Beverley Jandziol, INQ000562340\_040, ¶89; Fourth Witness Statement of Sir Gareth Rhys Williams (Government Chief Commercial Officer), INQ000535017\_026, ¶73.

<sup>13</sup> In this context, tests created for procurement as opposed to research and development purposes.

- 4.4. As to the tests themselves, these hurdles included: (i) the closed PCR systems (i.e. PCR machines that could only use components made by the manufacturers of the machine) that had been relied on prior to the pandemic;<sup>14</sup> (ii) the need for labs to have the appropriate containment level facilities;<sup>15</sup> (iii) the number of components needed to create and/or process a usable sample kit;<sup>16</sup> and (iv) the need for skilled trained lab staff to process PCR tests.<sup>17</sup>
- 4.5. More widely, and as LFDs became available, building an end-to-end service that allowed testing of larger cohorts posed significant questions including, for example:<sup>18</sup> (i) how to deliver test kits to users in different locations such as hospitals, residential care homes, supported living spaces, prisons, mobile testing sites and residential homes when each will have different ways of receiving and sending products; (ii) how to then get used tests to labs from that multiplicity of places; (iii) how to then deliver a lab result to GP systems and/or an online platform to inform the test taker of a result, prompt contact tracing and provide information to further understanding of the virus?<sup>19</sup>
- 4.6. There were significant challenges with collecting real-time data on the specific stock position. PCR and LFD tests were sent to a range of different locations, including people's homes. Stocks could not therefore be tracked in the same way as could be done in locations such as hospitals and pharmacies. The level of use of PCR tests could be assessed because the test was processed in a lab. Individuals using at-home LFD tests were not obliged to report how many tests they had, whether or not they had used them, nor their result if they had used an LFD test. This was not therefore a secure basis for assessing available supply and need for such tests.
- 4.7. At the outset of the pandemic, whilst testing was always recognised as a required component of preparedness, it was not clear how it would be used in a population level response to COVID-19. As the pandemic progressed, the policy decisions resulting in

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<sup>14</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_019, ¶3.36.7; Witness Statement of Dr Beverley Jandziol, INQ000562340\_066, ¶160.

<sup>15</sup> UKHSA Science & Technical Statement, INQ000518354\_017, ¶3.22 - INQ000518354\_019, ¶3.29.

<sup>16</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_017, ¶3.35.1-3.35.2; Dr Beverley Jandziol, 13/03/2025 [8/122/16-18].

<sup>17</sup> UKHSA Science & Technical Statement, INQ000518354\_009, ¶2.25.1; Dr Beverley Jandziol, 13/03/2025 [8/122/12-15, 8/122/19-25 - 8/123/1].

<sup>18</sup> Witness Statement of Baroness Dido Harding (Executive Chair, NHSTT), INQ000562339\_008, ¶4.5.

<sup>19</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_016, ¶3.32; Dr Beverley Jandziol, 13/03/2025 [8/122/24-25 - 8/123/1-6]; Witness Statement of Baroness Dido Harding, INQ000562339\_008, ¶4.3.

ever increasing targets and a changing strategic approach.<sup>20</sup> Consequently, any suggestion that by July 2020<sup>21</sup> the requirements for procuring testing should have been known, such that procurement planning and forecasting could have been undertaken, was and is unrealistic. Options for rapid tests were being explored throughout 2020. PHE was evaluating numerous types of tests.<sup>22</sup> Trials of different technologies were underway.<sup>23</sup> How or whether the public would accept mass testing was yet to be resolved.<sup>24</sup> This was, after all, the first time the public have ever been asked to use mass self-sampling (for PCR), or self-testing (for LFD), which in turn required plans to address information accessibility and build community trust. Engagement with industry was needed to drive new ideas for testing.<sup>25</sup>

- 4.8. As with vaccines, during the pandemic, the discovery process for a new product (both from a Commercial and a research and development perspective) required the ministerial confidence and risk appetite to consider and progress novel technologies, accepting that not every option may yield success. There was no logical reason to progress any particular offer of novel testing technologies more quickly than another; it was necessary to validate anything which could be scientifically viable to find the right test for the right use case and avoid a highly detrimental impact to health and the economy. Indeed, to create a market, a contracting authority will want to see as many products as possible going forward for evaluation, because the availability of a wider range of validated products would drive prices down.

### **Prioritisation Systems in Testing**

- 4.9. The issues investigated in this Module included the use of a “*prioritisation system [in] the procurement of key healthcare equipment and supplies in an emergency*”. The Inquiry has heard evidence about the use of a High Priority Lane for the procurement of PPE such that referrals sent to a priority email address were dealt with by a better resourced team able to respond more swiftly.

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<sup>20</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_022, ¶4.12 - INQ000521972\_023, ¶4.15; Fourth Witness Statement of Dame June Munro Raine CBE (Chief Executive of the MHRA), INQ000541374\_063, ¶229; Second Witness Statement of Chris Hall (Director, Cabinet Office Government Commercial Function), INQ000536421\_023, ¶82 - INQ000536421\_028, ¶102.

<sup>21</sup> Email chain between Lord Agnew's Private Office and HM Treasury colleagues regarding Testing Control, INQ000471020\_01, 23/07/2020.

<sup>22</sup> UKHSA Science & Technical Statement, INQ000518354\_007, ¶2.17 - INQ000518354\_011, ¶2.25.

<sup>23</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_041, ¶4.95.

<sup>24</sup> Witness Statement of Baroness Dido Harding, INQ000562339\_021, ¶5.16.

<sup>25</sup> Lord Bethell, 19/03/2025 [11/14/17-25 - 11/15/1-2].

- 4.10. That was not the case with the procurement of testing. Its unique feature, outlined above, meant that a prioritisation system was utilised for a different purpose to that which the Chair might find was adopted in other areas of procurement. The UKHSA 2022 Review, available to the Inquiry, found that the email addresses used by the commercial teams in DHSC and then NHSTT, while labelled in similar terms to those used for the PPE High Priority Lane, were used to prioritise the procurement of items or technology types that were needed or were of interest at a point in time. For example, if there was a shortage of swabs, then priority would be given to securing swabs. Witness evidence from those directly involved in the procurement of testing has confirmed the findings of the UKHSA 2022 Review.<sup>26</sup>
- 4.11. While the purpose for which a labelled email address was used changed over time, the prioritisation system did not at any time involve preferential treatment based on the referrer (including MPs). Regardless of the identity of the referrer, any referral went through the same process.<sup>27</sup>
- 4.12. The UKHSA 2022 Review noted that an email connected to Dominic Cummings, then an adviser at No.10, had been sent to a priority-labelled inbox at NHSTT. That email related to an LFD antigen test offered by Innova, a diagnostic company. During the oral hearings, the Inquiry explored a potential link between that email and the fact that the highest spend in terms of testing went to Innova. The Inquiry will want to note the following: first, Innova had themselves made an offer of the same LFD antigen test directly to NHSTT; second, there was no follow-up from Mr Cummings or his team; and third, there was already a communication relationship between Innova's sole agent and the commercial team responsible for procurement of testing. Innova's agent had already been in contact with the Testing Commercial Team from March 2020 when Innova had put forward an LFD antibody (as opposed to antigen) test which went through but did not pass validation in April 2020.

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<sup>26</sup> Witness Statement of Jacqui Rock (Chief Commercial Officer, NHSTT/UKHSA), INQ000572262\_012, ¶5.20 - INQ000572262\_013, ¶5.22; Witness Statement of Dr Beverley Jandziol, INQ000562340\_064, ¶152; Dr Beverley Jandziol, 13/03/2025 [8/142/4-13]; Lord Bethell, 19/03/2025 [11/18/23-25 - 11/19/1-2, 11/23/7-12].

<sup>27</sup> See UKHSA Commercial: Supplier Triage Analysis - Annex 3: Supplier Entry Process Flows, INQ000383569, dated December 2021.

- 4.13. Further, the LFD antigen test offered by Innova was one of the first to pass technical validation<sup>28</sup> conducted in line with PHE's comprehensive protocol.<sup>29</sup> It was not the sole test under consideration - the contract to Innova was the second LFD contract to be awarded and occurred at around the same time as two other tests had passed the early evaluation stages.<sup>30</sup> Innova offered tests in boxes of 3s, 7s, and 25s, and, with support from DHSC, obtained Medicines and Healthcare products Regulatory Agency ("MHRA") authorisation for the boxes of 3s and 7s, so offering a major advantage in ensuring take-up and reducing wastage.<sup>31</sup> Innova also had the capacity to meet the very large volumes of tests then needed.<sup>32</sup>
- 4.14. The contracts awarded to Innova provide an insight into how the procurement process had to be responsive to developments in policy:
- 4.14.1. The first contract to Innova was awarded in September 2020, when Operation Moonshot was being actively pursued by No.10<sup>33</sup> and the WHO issued interim guidance formally endorsing the use of LFD tests in response to COVID-19. In anticipation of increased global demand for LFDs, No.10 directed NHSTT to secure 250 million LFD tests.<sup>34</sup> This was to come from any supplier with suitable product.
- 4.14.2. LFDs from other suppliers that had passed validation were bought up by other countries, reflecting global competition for supply.<sup>35</sup>
- 4.14.3. By November 2020 - when it had been announced that LFDs would be made available to Directors of Public Health in England for them to direct and deliver asymptomatic testing in line with local priorities,<sup>36</sup> a pilot scheme of whole city

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<sup>28</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_050, ¶4.150, INQ000521972\_053, ¶4.163.

<sup>29</sup> UKHSA Science & Technical Statement, INQ000518354\_026, ¶4.17.

<sup>30</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_056, ¶4.183; Witness Statement of Dr Beverley Jandziol, INQ000562340\_063, ¶149.

<sup>31</sup> UKHSA Science & Technical Statement, INQ000518354\_030, ¶4.35; UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_053, ¶4.163; Sarah Collins, 13/03/2025 [8/89/3-9]; Witness Statement of Dr Beverley Jandziol, INQ000562340\_063, ¶149.

<sup>32</sup> Sarah Collins, 13/03/2025 [8/88/19-20].

<sup>33</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_047, ¶4.133 – 4.134.

<sup>34</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_047, ¶4.135.

<sup>35</sup> Dr Beverley Jandziol, 13/03/2025 [8/148/2025 - 8/149/1].

<sup>36</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_048, ¶4.137.

testing was progressed,<sup>37</sup> and further lockdowns were imposed - Innova was the only test that had passed all phases of PHE's evaluation.

- 4.14.4. In December 2020, and shortly before a contract was awarded to Innova on 15 January 2021, the Government announced that families could visit care home residents if they had a negative LFD test result<sup>38</sup> and that LFD tests would be deployed in secondary schools and further education colleges.<sup>39</sup> In addition, three new variants of COVID-19 emerged and in January 2021 the country went into lockdown (albeit there had been high level restrictions in place in some areas since late December 2020).<sup>40</sup>
- 4.14.5. On 18 February 2021, a further contract was awarded to Innova (before the Dynamic Purchasing System ("DPS") went live).<sup>41</sup>
- 4.14.6. On 22 February 2021, the Government published "*COVID-19 Response – Spring 2021*" which included a roadmap out of the current lockdown in England. This involved the decision not to place orders for assisted LFD tests (which could only be administered at testing sites or with individual professional support) and, on 13 March 2021, a direct award was made to Innova (with DHSC remaining the legal manufacturer of the Innova self-tests), to guarantee sufficient LFD stock until delivery in April 2021 of stock procured through the DPS.<sup>42</sup>
- 4.14.7. On 26 February 2021 and 13 March 2021, further awards were made to provide ongoing surety of supply as restrictions eased and access to smaller packs of LFD tests to support the reopening of schools.<sup>43</sup>
- 4.14.8. In mid-June 2021, the Prime Minister announced that the Universal Testing Offer (i.e., rapid testing being available to everyone in England) would be extended to the end of July 2021. A further three contracts were awarded, one to Innova, to maintain stock levels.

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<sup>37</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_050, ¶4.150.

<sup>38</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_048, ¶4.139.

<sup>39</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_049, ¶4.142.

<sup>40</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_049, ¶4.143.

<sup>41</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_015, ¶3.28.

<sup>42</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_054, ¶4.172.

<sup>43</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_049, ¶4.145; Sarah Collins 13/03/2025 [8/88/25 – 8/89/1-12].

4.14.9. On 8 December 2021, the Prime Minister announced a move to 'Plan B' (part of the Government's "COVID-19 Response: Autumn and Winter Plan"), which included the requirement for a COVID-19 pass to attend events and the potential for earlier release from isolation. Daily testing was announced as an alternative to isolation for those close contacts who were fully vaccinated and had no symptoms. This move came as Omicron infections were rising significantly in the UK, with attendant public concern.<sup>44</sup> Fully vaccinated contacts of a confirmed COVID-19 case were advised to take daily LFD tests for seven days and a confirmatory PCR if they tested positive. LFDs became essential to everyday life for most people.<sup>45</sup> On 17 and 29 December 2021 further contracts were awarded to Innova for LFDs, to meet the increased demand for tests.

4.14.10. All this took place while PHE was continuing at pace with evaluation of new LFDs, as well as testing already evaluated LFDs against variants of COVID-19, and/or batch checks for each shipment of LFDs received.

### **A Skilled Workforce**

4.15. Innovative procurements require a very strong procurement team because of the need to exercise judgement when considering new products/goods/services, in contrast with procurements that follow rigid processes.<sup>46</sup> It is vital therefore to have a skilled Commercial workforce ready and able to undertake innovative procurements.<sup>47</sup>

4.16. As should be no surprise, the Commercial teams concerned with the procurement of testing technologies during the pandemic were highly skilled professionals - the Government Commercial Organisation ("GCO") requires senior commercial staff to become accredited through the Assessment and Development Centre ("ADC").<sup>48</sup>

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<sup>44</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_060, ¶4.201.

<sup>45</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_061, ¶4.202.

<sup>46</sup> Professor Albert Sanchez-Graells (Procurement Expert), 04/03/2025 [2/32/18-25 – 2/33/1-7].

<sup>47</sup> Professor Albert Sanchez-Graells, 04/03/2025 [2/10/19-22].

<sup>48</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_023, ¶4.16-4.17.

- 4.17. During the pandemic, these teams increased in size from approximately 25 to 30 civil servants,<sup>49</sup> to 221 full time equivalent staff (of which 73 were civil servants), to a peak of 378 full-time equivalent staff.<sup>50</sup> Despite this, the experience of those who worked during the pandemic was of exceptionally long hours,<sup>51</sup> significant pressure<sup>52</sup> and having to adapt to often rapid changes in policy.<sup>53</sup> The teams did not have sufficient resources to prioritise all the requirements of an effective commercial system in the same way, including meeting transparency requirements,<sup>54</sup> (see further below). While some have criticised the use of consultants by NHSTT,<sup>55</sup> the involvement of the private sector occurred during an emergency, was utilised to establish what was a significant enterprise, NHSTT, at speed, and in circumstances where the civil service was already at full stretch and sometimes required elsewhere.<sup>56</sup>
- 4.18. To complete the picture as to the size of the workforce relevant to a testing system during a pandemic, account must be taken of the numbers of staff involved in distribution, supply management, and operational delivery. There seems little, if any, appetite for the argument that maintaining a workforce of the size required to respond to the pandemic, when it would not be required to deliver the same volume of work as in an emergency, represents value for money and the best use of public resources.
- 4.19. From UKHSA's perspective as an operational agency involved in pandemic preparedness and response, consideration of what skills are necessary in a commercial workforce and of the size of any workforce including in an emergency prompts the question: how can government ensure that sufficient additional resource, with the right skills and experience of public procurement is available to be called upon

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<sup>49</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_024, ¶4.22; Witness Statement of Dr Beverley Jandziol, INQ000562340\_063, ¶146; Witness Statement of Jacqui Rock, INQ000572262\_036, ¶8.2.

<sup>50</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_025, ¶4.24.

<sup>51</sup> Witness Statement of Dr Beverley Jandziol, INQ000562340\_074, ¶179; UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_025, ¶4.26; Darren Blackburn (Deputy Director, Cabinet Office Commercial Function Complex Transactions Team), 06/03/2025 [4/67/4-6, 4/81/19-24]; Andrew Wood, 06/03/2025 [4/197/9-14].

<sup>52</sup> Dr Beverley Jandziol, 13/03/2025 [8/143/6-14]; Sir Gareth Rhys Williams, 05/03/2024 [3/38/19-21, 3/39/6-8].

<sup>53</sup> Sarah Collins, 13/03/2025 [8/94/12-25 – 8/95/1-8]; Witness Statement of Baroness Dido Harding, INQ000562339\_017, ¶4.24, INQ000562339\_021, ¶5.19; Witness Statement of Dr Beverley Jandziol, INQ000562340\_032, ¶65.

<sup>54</sup> Witness Statement of Dr Beverley Jandziol, INQ000562340\_070, ¶167.

<sup>55</sup> Fourth Witness Statement of Sir Gareth Rhys Williams, INQ000535017\_013, ¶32; Witness Statement of Lord Theodore Agnew of Oulton (Cabinet Office Minister), INQ000536345\_007, ¶33 – 34.

<sup>56</sup> Cabinet Office Corporate Witness Statement, INQ000497031\_121, ¶4.215; Third Witness Statement of Sir Gareth Rhys Williams, INQ000536362\_006, ¶16; Fourth Witness Statement of Sir Gareth Rhys Williams, INQ000535017\_009, ¶26; Witness Statement of Dr Beverley Jandziol, INQ000562340\_019, ¶29 – INQ000562340\_020, ¶30; Witness Statement of Baroness Dido Harding, INQ000562339\_015, ¶4.16 – INQ000562339\_016, ¶4.23.

in an emergency without creating a large “*standing army*” that would not represent value for money?<sup>57</sup>

## **Lessons Learned and Recommendations**

### **The Procurement Act 2023 (“the 2023 Act”)**

- 4.20. Staff in UKHSA Commercial have received in-depth training on the changes to procurement introduced by the 2023 Act. While there has been some criticism and academic debate that the 2023 Act has not gone far enough,<sup>58</sup> operationally, it does offer greater flexibilities more suited to scaling and innovation in the face of a future pandemic. For example, there is an option to open a procurement framework to new suppliers on a regular basis, ensuring that UKHSA supports innovation. The opportunity to add new suppliers drives competition and value for money. The 2023 Act also supports the creation of effective purchasing systems.<sup>59</sup>
- 4.21. Further, and as UKHSA outlined in its oral closing statement, it is incorporating the lessons learned from the Microbiology Framework developed during the pandemic. The new Microbiology Framework and Diagnostic and Research Framework will be awarded for a period of 8 years, providing stability to suppliers and the market. These are consistent with the procurement regime available under the 2023 Act. The financial envelope of the framework has increased, and the scope is wider, to ensure it can be utilised for surge requirements and to keep pace with any potential innovation in the event of any future pandemic.

### **Surge Commercial Capability**

- 4.22. UKHSA has taken steps to strengthen its internal commercial expertise.<sup>60</sup> UKHSA's senior commercial staff are accredited through the ADC operated by the GCO. UKHSA's Commercial, Vaccines and Countermeasures Delivery Directorate is working to increase commercial awareness for non-commercial staff, with additional training for staff in specific roles, particularly contract management. This will improve

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<sup>57</sup> Witness Statement of Baroness Dido Harding, INQ000562339\_024, ¶6.5.

<sup>58</sup> Professor Albert Sanchez-Graells, 04/03/2025 [2/113/2-25 – 2/114/1-19].

<sup>59</sup> Witness Statement of Sir Christopher Wormald, INQ000571763\_058, ¶195a -195b.

<sup>60</sup> C.f. Witness Statement of Peter Munro (Senior Coalition Coordinator, UK Anti-Corruption Coalition), INQ000527634\_155, ¶381.2.

communication and clarity in the division of roles and responsibilities between scientific, operational and commercial teams and improve the quality and speed of response to a future pandemic.<sup>61</sup>

- 4.23. Given its remit, UKHSA benefits from employing commercial professionals who not only understand relevant procurement legislation but also the specific markets with which UKHSA needs to engage, as well as innovative developments in public health. Just as the Testing Commercial Team<sup>62</sup> did, there is a benefit to team members being able to understand the science. UKHSA Commercial enjoys close working relationships with the Agency's scientists. Its understanding of markets and innovations is fortified by developing relationships with the diagnostics industry (see with further below under "Partnerships").
- 4.24. The evidence in Module 5 gave a mixed picture of the contribution of external consultants to the procurement work done during the pandemic; external professionals provided a wide range of expertise<sup>63</sup> and highly experienced resources that were much needed,<sup>64</sup> but some were not accustomed to civil service procedures and requirements.<sup>65</sup> Whatever is said of the use of consultants, it remains a real possibility that the private sector may need to be used in a future pandemic to scale any commercial response.
- 4.25. However, to ensure that any surge workforce operates under the leadership of an experienced Commercial civil servant,<sup>66</sup> operational agencies like UKHSA would gain from a service level agreement established with the GCO. This agreement would be designed to mandate that the GCO diverted a minimum level of Commercial staff from other government departments to support the operational agency in procurement. This measure could draw upon the resourcing crisis list proposed by Dr Beverley Jandziol, which would allow the GCO to identify and deploy resource at pace in the event of a future pandemic.<sup>67</sup>

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<sup>61</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_089, ¶8.32.3.

<sup>62</sup> Dr Beverley Jandziol, 13/03/2025 [8/122/8-15]; Lord Bethell, 19/02/2025 [11/33/2-4]; Witness Statement of Jacqui Rock, INQ000572262\_036, ¶8.2.

<sup>63</sup> Witness Statement of Baroness Dido Harding, INQ000562339\_016, ¶4.20.

<sup>64</sup> Witness Statement of Dr Beverley Jandziol, INQ000562340\_060, ¶1137-138.

<sup>65</sup> Fourth Witness Statement of Sir Gareth Rhys Williams, INQ000535017\_013, ¶132; Witness Statement of Dr Beverley Jandziol, INQ000562340\_060, ¶1138.

<sup>66</sup> C.f. Fourth Witness Statement of Sir Gareth Rhys Williams, INQ000535017\_046, ¶1125; Witness Statement of Dr Beverley Jandziol, INQ000562340\_061, ¶1138.

<sup>67</sup> Supplementary Witness Statement of Dr Beverley Jandziol, INQ000587258\_0002, ¶7.

## Digital Technology

- 4.26. Many witnesses supported the upgrade of digital systems for the management of the procurement process, data collection and analysis, and for improving/expediting administrative processes.<sup>68</sup> The potential benefit of improved data systems is a point that UKHSA has previously made. However, digitalisation is not cost-free. Centralisation of data, including that which can assist the Commercial process, requires consideration of the risks and benefits.<sup>69</sup>
- 4.27. UKHSA's data strategy<sup>70</sup> recognises the potential benefit of the safe implementation of new AI tools, both in terms of improving the efficiency of the organisation and harnessing new opportunities to help prepare for and respond to health threats.
- 4.28. Commercial teams now use Atamis, a commercial management system, which was implemented during the COVID-19 pandemic. Since its initial deployment, UKHSA has progressively expanded Atamis' use, adopting additional modules to support and enhance compliant commercial activity. Key functionalities now in use include:
- 4.28.1. "Pipeline management" (i.e., the management of future tenders).
  - 4.28.2. A requirement that prospective contract documentation be uploaded before signature through "DocuSign", so ensuring proper recordkeeping and evidencing of contractual agreements.<sup>71</sup>
  - 4.28.3. A built-in messaging centre for supplier communications.
  - 4.28.4. Evaluation outcomes must be recorded before contract award can proceed, ensuring auditability and transparency.

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<sup>68</sup> Daniel Bruce (UK Anti-Corruption Coalition), 04/03/2025 [2/142/1-8, 2/143/18-22, 2/145/7-23]; Witness Statement of Sir Christopher Wormald, INQ000571763\_056, ¶195a; Second Witness Statement of Lord Bethell, INQ000528392\_002, ¶7; Witness Statement of Dominic Cook (Partner in the Major Programmes Team, Deloitte LLP) INQ000539152\_038, ¶125, INQ000539152\_042, ¶135.

<sup>69</sup> M3 Closing Submissions INQ000553307\_020, ¶65, INQ000553307\_26, ¶78, INQ000553307\_27, ¶81 – 88, INQ000553307\_31, ¶89.5; M4 Closing Submissions, INQ000000000\_009, ¶26 – 33.

<sup>70</sup> UKHSA Data Strategy, INQ000528385, 11/09/2023.

<sup>71</sup> Integration in the digital context meaning that different applications/software are connected can be used in a primary application/system, in these submissions the primary system is Atamis.

4.28.5. Automated alerts to prompt publication of transparency notices. Where contracts fall within the scope requiring an award notice, automated notifications are issued to users to prompt timely publication.

4.29. The value of Commercial Teams across government using a platform like Atamis is that less time is spent on manual tasks, allowing a team to focus on more urgent tasks. Taking the step of using the platform avoids the audit trail being fragmented by Commercial expertise having different departmental email inboxes.<sup>72</sup>

### **Crisis Management Planning**

4.30. Witnesses have spoken of the need for crisis management plans in Commercial.<sup>73</sup> UKHSA has already progressed its “red button” plan but recognises that such crisis management plans could be more effective if they were cross-government.<sup>74</sup> Such plans could come into effect immediately as part of a future emergency response and could for example include:

4.30.1. Agreement on governance processes – in its oral closing, UKHSA said that it would welcome cross-government agreement for the creation of adaptable blueprints on how to run emergency spending approvals, particularly involving large sums. Those blueprints, UKHSA suggests, should have clear lines of accountability, including by setting out the role of Ministers to ensure they have adequate oversight of spend while protecting against any perceptions of undue influence and to limit approaching other departments’ non-ministerial executives or civil servants (however senior). The blueprints should include plans for the establishment of pandemic-specific investment or approvals boards, or other similar processes that may need to be set up again. The scope and membership of such boards should be settled in advance, including the involvement of standing expertise from HM Treasury (“HMT”) and the Cabinet Office.

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<sup>72</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_041, ¶¶4.96 - 4.99.

<sup>73</sup> Witness Statement of Jacqui Rock, INQ000572262\_37, ¶8.3; Witness Statement of Sir Sajid Javid (Secretary of State for Health and Social Care), INQ000540760\_029, ¶¶74 – 75; Witness Statement of Sir Christopher Wormald, INQ000571763\_056, ¶195.

<sup>74</sup> Daniel Bruce, 04/3/2025 [2/142/18, 2/143/18-22].

- 4.30.2. Confirmation of likely spending delegations, including the criteria for how and when these would be mobilised. Financial thresholds could be agreed in advance and benchmarked (see further “Partnerships” below).<sup>75</sup>
- 4.30.3. Setting clear lines of authority from the outset so that external consultants brought into public service have a clear understanding of the scope of their roles.
- 4.30.4. Anticipating the range of skillsets most likely to be required in any surge resource and confirm the hiring requirements for the prospective surge workforce.
- 4.30.5. Agreeing emergency procedures to obtain early regulatory advice,<sup>76</sup> regulatory approval or accreditation with the MHRA and/or UK Accreditation Service, building from the structures in place during the pandemic, and confirming lead regulators who are better able to discuss issues with other regulatory bodies.<sup>77</sup>

## 5. TRANSPARENCY

- 5.1. Transparency should be seen as a trinity: transparency with the public, within Government, with suppliers.

### The Public

- 5.2. Transparency in the commercial process is vital. The public has a right to know how their money is spent.<sup>78</sup> The perception of corruption or wastage of public money – even if not the reality – leads to declining levels of public trust in government and its response.<sup>79</sup>

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<sup>75</sup> Witness Statement of Jacqui Rock, INQ000572262\_009, ¶5.4.

<sup>76</sup> Fourth Witness Statement of June Raine, INQ000541374\_063, ¶229.

<sup>77</sup> Fourth Witness Statement of June Raine, INQ000541374\_067, ¶241 – 242; Lord Paul Deighton KBE (Advisor on PPE to Secretary of State for the Department of Health and Social Care), 18/03/2025 [10/87/23-25 – 10/88/1-5].

<sup>78</sup> Counsel to the Inquiry's Opening Statement, 03/03/2025 [1/68/8-16].

<sup>79</sup> Daniel Bruce, 04/03/2025 [2/124/13-23]; House of Commons Report: Initial lessons from the government's response to the COVID-19 pandemic, Thirteenth Report of Session 2021–22, INQ000087199\_018, ¶18, 25/07/2021.

- 5.3. Professor Sanchez-Graells observes in his report that transparency obligations were not simply about public perception but are required to allow for oversight and challenge mechanisms, to ensure public procurement regulations are being adhered to.<sup>80</sup> The complexity in the context of a pandemic is that affording greater opportunity to challenge procurement decisions may have the impact of preventing access to necessary equipment and supplies. Whilst transparency was not – and should not be – considered dispensable, there is an important and difficult balance to be struck in circumstances where the imperative is to save lives at pace.
- 5.4. All contracts for PCR and LFDs were processed for publication on Contracts Finder (a GOV.UK site giving the public information about contracts with government and its agencies). However – as the Inquiry has heard – during the first six months of the pandemic publication was not always achieved within the stipulated time period. As Dr Beverley Jandziol explained, NHSTT was not resourced to comply with transparency requirements in the early days and weeks of the pandemic and the “*volume of the work was such that we could not prioritise the timely publication of transparency notices and contract award reports over the action we needed to take to secure and contract the required supplies.*”<sup>81</sup> Jacqui Rock<sup>82</sup> accepted that the delays in publishing contract notices “*allowed rumours to start about why awards weren’t being published, when it was simply caused by the pressure of work and missing contractual information.*”<sup>83</sup> This issue flowed not from a desire to avoid transparency obligations, but rather was the result of the extraordinary pressure which the pandemic placed on staff.<sup>84</sup> The priority, for the limited resource available in the first six months of the pandemic, was to get the supplies into the UK. When undertaking comparisons with other countries,<sup>85</sup> account should be taken of the overall effectiveness of the pandemic response, noting that COVID-19 caused the deterioration of transparency and accountability standards globally.<sup>86</sup>
- 5.5. Nevertheless, UKHSA recognises that – whatever the cause – the delays in publishing contract notices damaged public trust and created suspicion where there was

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<sup>80</sup> Expert Report of Professor Dr Albert Sanchez-Graells, INQ000539153\_025, ¶¶69.

<sup>81</sup> Witness Statement of Dr Beverley Jandziol, INQ000562340\_070, ¶¶167.

<sup>82</sup> Chief Commercial Officer at NHSTT and then UKHSA between August 2020 and December 2021.

<sup>83</sup> Witness Statement of Jacqui Rock, INQ000572262\_037, ¶¶8.6.

<sup>84</sup> Cabinet Office Corporate Witness Statement, INQ000497031\_013, ¶¶1.35.

<sup>85</sup> Witness Statement of Peter Munro, INQ000527634\_142, ¶¶345.

<sup>86</sup> Witness statement of Peter Munro, INQ000527634\_127, ¶¶305.

ultimately nothing untoward intended.<sup>87</sup> UKHSA has implemented changes to prevent and limit the risk of such delays occurring in the future.

## Oversight

5.6. There is no doubt that there were tensions over the oversight that HMT and the Cabinet Office sought over approval of testing contracts and spend. The evidence is that some of this tension arose from the diverging strategic views of HMT/Cabinet Office on the one hand and No.10 on the other. This resulted in conflicting policy positions. The Testing Commercial Team in DHSC, NHSTT, and later UKHSA, were placed in the middle of these diverging views, which meant they were then criticised for the difficulties that flowed from that political/strategic disagreement.<sup>88</sup>

5.7. To illustrate the complaint that HMT/Cabinet Office had over the contract approval process, witnesses, and specifically Lord Agnew, Gareth Rhys Williams and the Rt Hon Steve Barclay were asked about a request made for contract approval in July 2020.<sup>89</sup> As the Inquiry will recognise, this request occurred in the following circumstances:

5.7.1. The Testing Commercial Team was under-resourced and had been working for months with unforgiving hours and increasing pressures to find alternatives.<sup>90</sup>

5.7.2. The pressure on the Testing Commercial Teams had been amplified by a public promise to get to 500,000 tests per day.

5.7.3. The Cabinet Office had been engaged by the Testing Commercial Team a week before and the lines of enquiry required resolution before being submitted for approval.

5.8. It is right that, in relation to the email of July 2020, approval was sought within an extremely short time scale, but this was not an attempt to avoid scrutiny on spend or

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<sup>87</sup> House of Commons Report: Initial lessons from the government's response to the COVID-19 pandemic, Thirteenth Report of Session 2021–22, INQ000087199\_008, ¶3, 25/07/2021; Witness Statement of Kamran Abbasi (Editor in Chief, BMJ), INQ000515727\_035, ¶81.

<sup>88</sup> Witness Statement of Baroness Dido Harding, INQ000562339\_025, ¶6.9; Witness Statement of Dr Beverley Jandziol, INQ000562340\_018, ¶24.

<sup>89</sup> Email chain between Lord Agnew's Private Office and HM Treasury colleagues regarding Testing Control, INQ000471020\_03, 23/07/2020.

<sup>90</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_047, ¶4.134.

the choice of suppliers. As Dr Beverley Jandziol explained to Lord Agnew at the time, *“there is not a suitable framework for lab capacity that could have been used for a mini competition... Based on the timeframes needed to set up the labs and ramp up capacity there is no time to run a competitive process especially when test compatibility and validation are taken into account. The quickest route to competition is via a suitable Framework agreement further competition which itself would have a cycle of 6 to 10 weeks from statement of requirements and specification to contract.”*<sup>91</sup> It is also relevant that there was a pre-existing relationship with one of the suppliers, who was on other frameworks prior to the pandemic. Their equipment was already installed in Lighthouse Laboratories and to switch to alternative kits and tests would have taken a considerable amount of time for installation and validation. Another supplier had the capacity to increase volume allocation to the Government.

- 5.9. As with publication of contracts for the public, the reduced time for scrutiny was a consequence of the highly pressured work environment and the absence of pre-existing plans. This, along with debates around the plans for Winter 2020, led to increased Cabinet Office representation in Commercial work in testing.<sup>92</sup> It is also the reason why, as proposed above, plans for representation in the spending approvals process during an emergency should be defined before the next pandemic.
- 5.10. But oversight goes both ways. The Inquiry received evidence of how Commercial had limited involvement in the targets that were being set and so were unable to offer their assessments on the feasibility of the requirements that were placed on them with limited time.<sup>93</sup> Thus future plans should include Commercial involvement on feasibility before any major public commitments are made.

## **The Market**

- 5.11. As to transparency for suppliers, Professor Sanchez-Graells has advocated for an approach adopted in Germany, whereby *“contracting authorities go to the market with their maximum price, for example, or maximum tolerance, with a specific technical requirement, and whoever can meet it comes forward. There is no need for negotiation,*

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<sup>91</sup> Briefing: COVID-19 – DHSC, Lighthouse Laboratories Expansion, Response to Conditions, INQ000535833\_004, 23/07/2020.

<sup>92</sup> COVID-O Meeting Minutes, INQ000090167\_011, 06/08/2020; Third Witness Statement of Sir Gareth Rhys Williams, INQ000536362\_007, ¶19.

<sup>93</sup> Dr Beverley Jandziol, 13/03/2025 [8/145/5-13]; Witness statement of Dr Beverley Jandziol, INQ000562340\_072, ¶174.

*there is no need for triaging... instead of completely unstructuredly (sic) going to the market and seeing what comes in, which can overwhelm a system, going out with a specific set of conditions both prevents corruption and maladministration in the sense that the conditions are set, they are not open to negotiation, but also, very much reduces the bureaucratic task, in that the offers will or will not match the requirements.*<sup>94</sup> Whilst this may be a desirable approach during a pandemic in respect of defined products, the difficulty in relation to tests was that the science in relation to COVID-19 was not settled; an iterative approach to testing had to be adopted. The same will be true of any future pathogen. It is not possible to publish specifications for products that do not yet exist.

- 5.12. UKHSA considers that transparency in this context is better met by having a single point of entry to the commercial process, where suppliers are aware of the categories and types of products that they may be asked to provide. UKHSA's Commercial Strategy notes, *"our partners told us that they need an easily accessible 'front door' into UKHSA, with clear signposting and routes to the right people in the agency, earlier and more complete visibility of procurement opportunities so they can anticipate and mobilise to meet our requirements (particularly SMEs who have innovative solutions but less resource to respond to tenders at short notice).*"<sup>95</sup> As Sarah Collins, UKHSA's Commercial Director, emphasised, rightly, in her oral evidence, it was (and is) *"actually more important for us to be clear on how do we do (sic) proper front door going forward. So that's what my focus was on establishing a new commercial function in UKHSA, where we have now got a front door which is managed in a very transparent manner, because industry does need an access point, but it's important that it's not influenced by people or that no one is being handheld, but that we are following the proper processes"*.<sup>96</sup>

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<sup>94</sup> Professor Dr Albert Sanchez-Graells, 04/03/2025 [2/109/3-20].

<sup>95</sup> UKHSA Commercial Strategy 2024, INQ000421934\_16, INQ000421934\_20, INQ000421934\_30.

<sup>96</sup> Sarah Collins, 13/03/2025 [8/93/12-25]; see also UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_087, ¶8.25. Similarly, the need for a clear point of entry was also observed by Jacqui Rock, the Chief Commercial Officer for NHSTT; Witness Statement of Jacqui Rock, INQ000572262\_027, ¶6.45.

## Lessons Learned and Recommendations

- 5.13. UKHSA has developed, and is continuing to develop, that “Commercial Front Door”, offering a single point of access for potential suppliers and industry to contact UKHSA and for the agency to triage offers and process them efficiently and transparently.<sup>97</sup>
- 5.14. The Commercial Front Door supports initial engagements and queries from industry. This is done in the first instance through email contact. Such contact is triaged by the Commercial Market Engagement team and assigned in accordance with a Service Level Agreement for initial response. Project management software is used to track and manage queries efficiently and effectively. The system also provides reporting and analytical capabilities to allow progress tracking and identify bottlenecks as well as ensuring effective audit trails. In a pandemic scenario, an additional process will be set for the Commercial Front Door, to include:
- 5.14.1. A more efficient timescale for initial response.
  - 5.14.2. Clear triage owners for each stage of the process and set response targets.
  - 5.14.3. Defined criteria on how any offers are triaged ensuring all offers are evaluated in a transparent manner with clear criteria and decision-making process.
  - 5.14.4. A clear conflict of interest process and how this will be managed.
- 5.15. UKHSA will build further upon its recently established programme of strategic commercial partnerships ensuring senior responsible owners within the organisation for key suppliers and other industry partners. In addition to the initial engagement managed via the front door UKHSA will also offer account management to build and maintain long term relationships. This requires the development of scientific and commercial partnerships, a topic which is discussed in more detail below.
- 5.16. UKHSA has developed, and is continuing to develop, additional transparent processes.<sup>98</sup> Since the pandemic, UKHSA has used technology to improve its

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<sup>97</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_087, ¶8.25.1; UKHSA Commercial Strategy 2024, INQ000421934\_020.

<sup>98</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_087, ¶8.25.

commercial approvals process, introducing a new app and automated workflow for approval of spend cases up to £2 million. The purpose of the app is to make routine spend approvals more efficient, ensure proper scrutiny and due diligence to obtain good value for public money, maintain a centralised record of contract approvals that is fast and user-friendly, and guard against fraud risk. The app is only functional for low value approvals; all other approvals are routed through the Investment Governance Model via the appropriate approvals boards.<sup>99</sup>

- 5.17. An Investment Governance Model is already in place within UKHSA, which seeks to apply proportionate scrutiny to the approval of contract spend with a graduated system of approval thresholds, delegations and Boards. It has streamlined approvals for low value spend, while ensuring that high-value, complex, or higher risk contracts receive greater assurance and approval at a higher threshold. All contracts for professional services and consultancy require Board approval, whatever their value.<sup>100</sup>
- 5.18. UKHSA considers that there is scope to expand the advantages of the Investment Governance Model described above for larger approvals, that could involve other departments in the event of a future pandemic.

## **6. PARTNERSHIPS**

### **The need for strategic partnerships with industry**

- 6.1. As UKHSA set out in its opening statement, collaboration between Government departments, the private sector and academia was critical to the development and procurement of COVID-19 PCR and LFD tests. It is for this reason that UKHSA's commercial strategy highlights the establishment of a range of partnerships with industry as a first priority, with the ambition of ensuring ongoing development, evaluation and rapid availability of diagnostic tools and clinical countermeasures in any future pandemic. That approach echoes work done by UKHSA in other areas, which have been canvassed in earlier modules.
- 6.2. The importance of developing relationships with industry and suppliers has been emphasised by several witnesses. Deep strategic relationships with a range of

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<sup>99</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_088, ¶8.27 – 8.29.

<sup>100</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_087, ¶8.26.

suppliers (from large manufacturers to smaller start-ups) are required to maintain, or ease disruption in, supply chain resilience.<sup>101</sup>

6.3. The engagement and development of these strategic relationships with industry has two aspects:

6.3.1. Market scanning to identify products that are already being produced or developed; and

6.3.2. Horizon scanning to consider what can, from a science perspective, be predicted in terms of pathogen families and developments, and consider what can be done with the known science to develop diagnostics (or vaccines) ahead of the time they may be needed. UKHSA referred, in its opening statement for this module, to measures already adopted in pursuit of that ambition, including the agency's pathogen genomic strategy and new Diagnostics Accelerator, and its participation in the 100-day mission. In the interim period, UKHSA has now also published its Priority Pathogens Families Research and Development Tool for the UK.<sup>102</sup>

### **Industry Relationships before COVID-19**

6.4. When the pandemic hit, there was no established market for COVID-19 testing supplies, and no operational and scientific agency, like UKHSA now, with a history of engaging with industry from a commercial perspective for the purposes of public health pandemic preparedness. This meant that there were no established relationships with the private sector nor routes to market for contractual engagement of the size or speed that the pandemic demanded.<sup>103</sup> The lack of such engagement did not reflect resistance or caution,<sup>104</sup> but more likely stemmed from unfamiliarity given that there had been no public funding or organisational remit for identifying and developing strategic relationships. Diagnostic procurement had been the remit of the NHS.<sup>105</sup>

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<sup>101</sup> Professor John Manners-Bell (Supply Chains Expert), 10/03/2025 [5/28/24-25 – 5/29/1-9].

<sup>102</sup> UKHSA Priority Pathogens Families Research and Development Tool, INQ000587354, 25/03/2025.

<sup>103</sup> Sarah Collins, 13/03/2025 [8/79/14-25].

<sup>104</sup> Second Witness Statement of Lord Bethell, INQ000528392\_012, ¶¶33; Witness Statement of Baroness Dido Harding, INQ000562339\_025, ¶¶6.7.

<sup>105</sup> Second Witness Statement of Duncan Selbie (CEO, PHE), INQ000536423\_010, ¶¶35 - INQ000536423\_011, ¶¶36.

- 6.5. Thus, much like the infrastructure for testing, many relationships had to be developed from scratch,<sup>106</sup> with suppliers being identified through other organisations,<sup>107</sup> or pre-existing PHE or NHS framework agreements.<sup>108</sup>
- 6.6. The UK was substantially disadvantaged in the early months of the pandemic when starting to scale testing because it lacked a mature domestic diagnostics industry and there was an overreliance on large international suppliers.<sup>109</sup> As already mentioned, the diagnostics industry is specialist and the requirements were technical,<sup>110</sup> so the scoping exercise for testing technology was framed by the need to find suppliers established in the market.<sup>111</sup>
- 6.7. The call to arms for tests brought with it the same pressure of volume in offers as experienced by commercial teams dealing with PPE and ventilators,<sup>112</sup> and had different parameters because the calls could be targeted.<sup>113</sup> The advantage was that it gave the Commercial teams that were procuring tests the chance to reach innovative offers.<sup>114</sup>
- 6.8. It was inevitable that prominent suppliers would be engaged,<sup>115</sup> and that the UK would need to rely on British companies stepping forward, such as Randox, whose offer was the most advantageous.<sup>116</sup>
- 6.9. The cost, timing and volatility of global manufacturing and logistics – which risked supply and increased costs – led to the establishment of the UK Make programme in October 2020. The domestic industry did not expand as rapidly as hoped, in the pressure of the pandemic. Nonetheless, the development and sustaining a domestic diagnostics industry may be relevant in a future pandemic.<sup>117</sup>

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<sup>106</sup> Second Witness Statement of Duncan Selbie (CEO, PHE), INQ000536423\_010, ¶33c.

<sup>107</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_40, ¶4.93, INQ000521972\_45, ¶4.122; Cabinet Office Corporate Witness Statement, INQ000497031\_132, ¶4.252; Witness Statement of Dr Beverley Jandziol, INQ000562340\_039, ¶83, INQ000562340\_055, ¶127; Lord Bethell, 19/03/2025 [11/17/20-23].

<sup>108</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_041, ¶4.95; Dr Beverley Jandziol, 13/03/2025 [8/129/15-21].

<sup>109</sup> Witness Statement of Dr Beverley Jandziol, INQ000562340\_066, ¶160; Lord Bethell, 19/03/2025 [11/23/17-25 – 11/24/-1-8].

<sup>110</sup> Dr Beverley Jandziol, 13/03/2025 [8/138/21-25 – 8/139/1-12].

<sup>111</sup> Dr Beverley Jandziol, 13/03/2025 [8/141/17-20]; Second Witness Statement of Professor Sir John Bell, INQ000539149\_006, ¶21.

<sup>112</sup> Dr Beverley Jandziol, 13/03/2025 [8/139/13-25].

<sup>113</sup> Lord Bethell, 19/03/2025 [11/11/12-17]; Dr Beverley Jandziol, 13/03/2025 [8/139/13-25].

<sup>114</sup> Lord Bethell, 19/03/2025 [11/12/22-25 – 11/13/1-4]; Dr Beverley Jandziol, 13/03/2025 [8/140/14-25].

<sup>115</sup> Second Witness Statement of Professor Sir John Bell, INQ000539149\_007, ¶22.

<sup>116</sup> Lord Bethell, 19/03/2025 [11/40/3-6, 11/41/6-12].

<sup>117</sup> Second Witness Statement of Chris Hall, INQ000536421\_028, ¶101.

## Lessons Learned and Recommendations

- 6.10. The UK did not have sufficiently developed and appropriately structured existing relationships with industry bodies at the beginning of the pandemic that could enable the rapid development of necessary technologies. To that end, UKHSA has developed and is now actively piloting a framework for strategic partnerships with industry partners, learning from the responsive commercial practice adopted during COVID-19 and the agency's experience of engaging with industry since.<sup>118</sup> Details of the framework can be found in UKHSA's corporate witness statement.<sup>119</sup>
- 6.11. The capabilities realised during the COVID-19 pandemic - through accelerated innovation in diagnostics and vaccines, and the development of a national testing infrastructure in addition to innovative science - required collaboration with industry and significant public and private sector funding.<sup>120</sup> Replicating and developing the capabilities identified in the *Technical Report on the Covid-19 pandemic in the UK* requires the routine maintenance of relationships and the establishment of strategic partnerships with industry, academia and non-governmental organisations. This provides for the exchange of scientific information which can – in turn – inform testing technologies and product development for novel pathogens.<sup>121</sup> An illustration of that exchange is UKHSA's Diagnostic Accelerator, a specialist team with a remit to boost the development of suitable diagnostic tests for those pathogens assessed as posing the highest risk of a pandemic. The team takes its direction from the Priority Pathogens Tool. In undertaking its work, the team is establishing new relationships not only with academia but also manufacturers.
- 6.12. UKHSA continues to develop ongoing relationships with industry. The agency's published commercial strategy recognises that "*Commercial expertise is just as important as our scientific, clinical and other capabilities in protecting the health of our nation.*"<sup>122</sup> That strategy seeks to make UKHSA a partner of choice not only with industry but also with universities, research organisations and social enterprises. It aims to develop UKHSA's commercial capability, including by recruiting, retaining and

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<sup>118</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_083, ¶8.18.

<sup>119</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_083, ¶8.18.1-8.18.4.

<sup>120</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_083, ¶8.16.

<sup>121</sup> UKHSA Corporate Witness Statement on Commercial Matters, INQ000521972\_083, ¶8.17.

<sup>122</sup> UKHSA Commercial Strategy 2024, INQ000421934\_04.

developing expert commercial staff. The UKHSA commercial pipeline provides a forward look at potential commercial activity within UKHSA. The next step for the Agency is to establish strategic relationship management with key suppliers and industry partners including appointing a senior responsible owner within the Agency to manage the relationship. As well as the initial engagement managed via the Commercial Front Door, the Agency now offers account management to build and maintain long term relationships.

- 6.13. UKHSA recognises that there is a tension between the criticality of maintaining deep strategic relationships with suppliers and the need to avoid actual or perceived conflicts of interest. This issue is one that arose during the pandemic in a variety of different contexts. It is one that needs ongoing scrutiny but is capable of management through the transparent processes that UKHSA is putting in place.
- 6.14. Finally, UKHSA is also building on arrangements which evolved during the pandemic and continues to work with the devolved administrations and their public health agencies, discussing means of working effectively together including in relation to future pandemic preparedness.

## **7. CONCLUSION**

- 7.1. It is likely a matter of common agreement that having a test and trace system capable of scaling up as soon as a pandemic threat is identified requires clarity as to how a testing system could be scaled when necessary. UKHSA meets its operational remit in this area, as in others, through: promoting innovation including by undertaking research, establishing strong relationships with academia and industry, and seeking to identify those pathogens which present the highest risk and for which diagnostic tests can be developed early. An important aspect of how UKHSA procures is having the structures in place in advance of a pandemic through which industry can engage with the Agency.
- 7.2. As it must, UKHSA currently provides all of its required services, including non-infectious disease science and response and global surveillance within 3% of its original pandemic budget, a figure which, as has been pointed out before in this Inquiry, is akin to that allocated to a moderately sized district hospital.

7.3. That returns matters to the vexed question of prioritisation of funding across the many competing demands of government in general, and emergency response and preparedness in particular. Professor Duncan Selbie (Former CEO of PHE) described having a scalable diagnostic testing capacity as an investment in preparedness, rather than a cost to be borne.<sup>123</sup> But, as Baroness Dido Harding notes, there is a real risk that *“without conscious government encouragement and funding I fear that inevitably UKHSA will become isolated again. The UK Government should ensure maintaining collaborative relationships with the commercial diagnostics sector and broad academic institutions beyond public health (in statistics, data analytics, behavioural science etc) is a stated priority for UKHSA going forward and appropriately funded.”*<sup>124</sup> If the cost will be paid, whether now or later, the choice must be made by elected decision makers having regard to competing pressures.

**BILAL RAWAT KC  
SAARA IDELBI  
ELEANOR LUCAS  
HOLLY WALDRON**

**7 MAY 2025**

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<sup>123</sup> Second Witness Statement of Duncan Selbie, INQ000536423\_016, ¶145.

<sup>124</sup> Witness Statement of Baroness Dido Harding, INQ000562339\_025, ¶16.7.