

Witness Name: Grace Ononiwu

Statement No:1

Exhibits: 1

Dated: 20.12.24

THE UK COVID 19 PUBLIC INQUIRY

Witness Statement of Grace Ononiwu

I, Grace Ononiwu will say as follows:

1. I provide this statement on behalf of the Crown Prosecution Service ('CPS') in response to a request received on 11 June 2024 under Rule 9 of the Inquiry Rules 2006 to examine what relevant information and/or material the CPS hold regarding the procurement of key equipment and supplies across the UK public sector in relation to the Covid-19 pandemic ('the pandemic').

Authority of Witness

2. I have been the Director of Legal Services (DLS) at the Crown Prosecution Service since April 2021. I am responsible for providing assurance to the Director of Public Prosecutions, (DPP) on casework quality and performance. Previously I was the Chief Crown Prosecutor for Northamptonshire from 2005, in 2012 I was appointed Chief Crown Prosecutor for the East of England Region, and in 2014 undertook the role of Chief Crown Prosecutor in the West Midlands Region.

The CPS's Function and Role

The CPS

3. The CPS is an independent Government Department responsible for prosecuting criminal cases investigated by the Police and other law enforcement agencies in England and Wales.
4. The CPS was created by the Prosecution of Offences Act 1985 and is headed by the DPP. As the principal prosecuting authority in England and Wales, the CPS is responsible for:
 - a) advising the Police and other law enforcement agencies on cases for possible prosecution.
 - b) reviewing cases submitted by the Police or other investigative agencies.
 - c) determining any charges in all but minor cases.
 - d) preparing cases for court, and
 - e) presenting cases at court.
5. The CPS operates across England and Wales, with 14 regional teams prosecuting cases locally ('CPS Areas'). Each of these 14 CPS Areas is headed by a Chief Crown Prosecutor (CCP) who is responsible for the day-to-day operation of their Area, working closely with local police forces and other criminal justice partners. CPS Direct (CPSD) is a 'virtual' 15th CPS Area, operating nationally to provide 'out of hours' charging advice to the police and other investigators, which is also headed by a CCP.
6. There are two Directors of Legal Services, and we have line management responsibility of all CCPs.
7. The CPS also has Central Casework Divisions, the Special Crime and Counter Terrorism Division and the Serious Economic, Organised Crime and International Directorate, which operate with national remit to cover specific specialised casework and are led by CCPs.
8. The Serious Economic, Organised Crime and International Directorate (SEOCID) is comprised of three divisions: the International, London and South-East Division, the Regional and Wales Division and the Proceeds of Crime Division.

9. The International, London and South-East Division, and the Regional and Wales Division are comprised of specialist multidisciplinary teams of prosecutors who deal with complex organised crime casework.
10. The International, London and South-East Division includes an International Unit which includes Liaison Prosecutors based overseas, and an Extradition Unit, together with a Serious Organised Economic Team of Specialist Prosecutors and Senior Crown Prosecutors.
11. The Serious Economic and Organised Crime Division in Regional and Wales is comprised of an Organised Child Sexual abuse Unit and Serious Economic and Organised Crime units. Working within these teams are Specialist Prosecutors and Senior Crown Prosecutors who authorise charges and prosecute cases that involve economic and/or organised crime case which are particularly serious, complex, sensitive or require expertise. This can include cases where there are novel or complex legal issues, investigations that involve more than one government department, complex disclosure issues or cases which relate to highly sensitive intelligence.
12. CPS Areas and Divisions are supported by a central headquarters team which includes our Operations, Digital, Strategy and Policy, Finance, Human Resources and Communications Directorates and the DPP's Private Office.
13. The CPS prosecutes criminal cases that have been investigated by the police and other investigative agencies in England and Wales. We are an independent non-ministerial department, and we make our decisions independently of the police or government. The CPS is superintended by the Attorney General for England and Wales, who is the cabinet minister with oversight of the CPS.
14. The nature and types of cases we prosecute range from driving offences, drug offences, domestic abuse and sexual offences, offences against the person and youth crime, homicide offences, fraud and economic crime, cases involving terrorism and bribery offences.
15. The CPS is a demand-led organisation and our role as prosecutors is separate to investigators in that we prosecute only the cases that have been provided to us by an investigative authority. We do not begin an investigation and the decision to start an

investigation and how an investigation is progressed is a matter for that investigative authority. The CPS may be asked to provide advice pre-charge on an investigation, particularly in complex cases. Prosecutors will advise on matters such as reasonable lines of enquiry, disclosure strategy and international legal considerations at this stage, but until a full file of evidence is provided in line with the Directors Guidance on Charging (which is addressed in further detail below), a file is not considered to be referred to the CPS.

16. Our CPS Areas and Divisions work with 43 police forces across England and Wales. Other investigative agencies that we work with include the National Crime Agency, HMRC, DWP, DEFRA, and the NHS Counter Fraud.
17. Primarily, the Police are the authority responsible for investigating cases that are then prosecuted by the CPS. They are responsible for investigating a suspected crime, collecting evidence, and arresting or detaining suspected offenders. For less serious offences the police will make the decision about whether a suspect should be charged. For more serious offences the police will send the case to the CPS, and we will decide whether a suspect can be prosecuted.

Charging decisions

The Code

18. All criminal prosecutions brought by the CPS are governed by the Code for Crown Prosecutors ('the Code'). This is a public document which is laid before Parliament. The current version was issued in 2018.
19. When a case passes to the CPS to prosecute, a CPS prosecutor will review the evidence to determine whether there is sufficient evidence of an offence and whether the alleged offending merits a prosecution and, if so, whether the correct charge has been applied to the offending.
20. The Code provides guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. Prosecutors may only commence a prosecution when the case satisfies the Full Code Test. The test is set out in Chapter 4 of the Code.

It has two stages: the first is the requirement of evidential sufficiency and the second involves consideration of the public interest.

21. To satisfy the first stage, a prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. This means that an objective, impartial and reasonable jury (or bench of magistrates or judge sitting alone), properly directed and acting in accordance with the law, needs to be more likely than not to convict the defendant. It is an objective test based upon the prosecutor's assessment of the evidence (including any information that he or she has about the defence). If the case does not pass the evidential stage, then consideration of the public interest does not arise.
22. Only once a case has passed the evidential stage may the prosecutor go on to consider whether a prosecution is required in the public interest. It has never been the rule that a prosecution will automatically take place once the evidential stage is satisfied. However, a prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those in favour.
23. The Code sets out some common public interest factors tending for and against prosecution. However, assessing the public interest is not an arithmetical exercise involving the addition of the number of factors on each side and then making a decision according to which side has the greater number. Rather, each case must be considered on its own facts and its own merits. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction. Even where there may be a number of public interest factors which tend against prosecution in a particular case, the prosecutor should consider whether the case should go ahead but with those factors being drawn to the court's attention so that they can be reflected in the sentence passed.
24. Prosecutors are supported in their decision making by centrally produced Legal Guidance, which is publicly available on our CPS website. Prosecutors should have regard to applicable policies and guidance when making their decision on charge.

Director's Guidance

25. Since 2004 the CPS has been responsible for providing authority to charge in all but minor cases, where the police can make the decision to charge. The DPP can issue

guidance to the police in respect of the making of charging decisions. The first such Guidance, known as the Directors Guidance on Charging, was issued in May 2004, and explained how and in what circumstances the CPS would provide charging advice.

26. The current Guidance (the 6th Edition) was issued in December 2020. The guidance sets out the roles and responsibilities of the police and prosecutors when seeking charging advice and details the type of charging decisions which the police can make themselves without the need for CPS authority. It sets out how and when advice can be sought from a prosecutor, and the material to be submitted to seek that advice. This material is called a full file submission and constitutes the required documentation that will lead a prosecutor to review a case.

Legal Guidance

27. The CPS produces legal guidance to support prosecutors to make fair, consistent charging decisions. The CPS has not produced any specialist guidance or instructions about prosecution decisions relating to the procurement of key healthcare equipment and supplies.

Prosecutions relating to the procurement of key healthcare equipment and supplies.

28. All Areas and casework divisions were asked to confirm if they hold any cases and encompassing all offences that relate to the procurement of key health care equipment supplied during the pandemic – including any cases which involve the high priority lane or involve contracts relating to PPE, the supply of respiratory equipment, Lateral Flow Tests, PCR kits and ventilators.
29. The investigative authorities that have referred cases to the CPS for early advice or for a charging decision to be made are the National Crime Agency (NCA) and His Majesty's Revenue and Customs (HMRC).

Operation: I&S

30. The only case that relates to the procurement of key healthcare equipment and supplies is Operation I&S This is a live NCA investigation that has not yet been referred to the CPS for a charging decision to be made. The NCA are in the process of compiling the material that will form a full file submission to the CPS.
31. HMRC have a simultaneous civil investigation that is looking at what profits were declared by the suspects. The DHSC are currently suing PPE Medpro for breaching their contract, in respect of the quality of the PPE provided.
32. Prosecutors from the SEOCID Regional and Wales Case Team have been allocated the case and are advising the NCA on reasonable lines of enquiry, case strategy and disclosure. This is pursuant to the CPS function to give advice under the Prosecution of Offences Act 1985 3(ed)(i), namely *“to give advice, to such extent as he considers appropriate and to such person as he considers appropriate, in relation to (i)criminal investigations by the National Crime Agency, or (ii)criminal proceedings arising out of such investigations”*.
33. The offences that are being considered include conspiracy to defraud, fraud by false representation and money-laundering.

Summary of Allegations

34. The suspects in this case include Baroness Michelle Mone and Douglas Barrowman. Aside from Operation I&S the CPS has identified eight investigations connected with suppliers of PPE during the pandemic. Of these eight investigations, only two are potentially within the scope of Module 5; one was closed by the investigating agency, and one was a private prosecution discontinued by the CPS.
35. During the early months of the Covid pandemic the UK Government created a fast-track process to rapidly secure large amounts of personal protective equipment (PPE) for the NHS. A High Priority Lane (HPL), also known as the “VIP Lane” was established, to allow recommendations of PPE supply companies to the NHS, via the Department for Health and Social Care (DHSC).
36. The NCA are currently investigating how Mone gained access to the HPL and was able to obtain two contracts on behalf of the company, PPE Medpro.

37. The company was incorporated in May 2020, after Mone contacted a civil servant through the HPL, putting forward PPE Medpro as a suitable company for a PPE contract. The Directors of PPE Medpro were Anthony Page, who had worked for Douglas Barrowman, the husband of Mone, for over a decade and Voirey Coole, the Managing Director of Barrowman's family trust.
38. The first contract, signed on 30 May 2020, was for the supply of medical and surgical masks and was worth £80.85m. The second contract, signed on 26 June 2020, was for the supply of surgical gowns and was worth for £122m. Both contracts were signed by Anthony Page on behalf of the company.
39. The investigation is considering representations made by Mone to the DHSC concerning her involvement with the company and any financial benefit accrued. Mone and Barrowman secured a significant financial benefit from the PPE Medpro contracts, diverted through offshore accounts and family trusts.
40. The documents provided by PPE Medpro to the DHSC, to support their claim that they had legitimate and direct connections to established PPE suppliers in China are also a key part of the investigation.
41. A Restraint application was made in April 2023 in respect of Mone and Barrowman. The Restraint Order was obtained by consent and followed negotiations between the CPS and Mone and Barrowman. It has secured approximately £77 million in assets in the UK and Isle of Man, most of which are traceable to PPE/DHSC derived funds.

Liaison with other agencies

42. The CPS has not liaised with other agencies regarding the overarching prosecution of suspected crimes relating to the procurement of key healthcare equipment and supplies. Our liaison with agencies has been on a case-by-case basis, relating to the investigations that have been referred to the CPS. The two agencies identified within our review of these cases are the NCA and HMRC.

43. The CPS has not entered into any agreement or signed any protocol with any investigative agency regarding the investigation and prosecution of suspected crimes relating to the procurement of key healthcare equipment and supplies.

Lessons to be learnt.

44. The CPS has undertaken no analysis in respect of contracts relating to the procurement of key healthcare equipment and supplies other than the contracts that form part of Operation I&S There are no themes or underlying features identified as our interaction with DHSC contracts has been so limited. We therefore have no comment to make on how the system of awarding contracts in whole-system emergencies could be improved.

45. The CPS has not produced or commissioned any internal reviews or undertaken any lessons learned exercises that relate to any of the issues in the scope of Module 5 since January 2020.

Statement of Truth

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

Signed:

Personal Data

Dated: 20 December 2024