

Debate Pack

Number CDP 2021/0089

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Government contracts during the Covid-19 outbreak

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1 Background

MPs will debate a [petition](#) calling for a public inquiry into Government contracts granted during Covid-19. The debate will take place in Westminster Hall on 21 June 2021 at 6.15pm.

The debate will be led by Tonia Antoniazzi MP.

1.1 Procurement during the pandemic

In responding to the Covid-19 pandemic, the Government and other public sector bodies have outsourced many activities to the private sector. Contracts have covered supplies of personal protective equipment (PPE), medical equipment such as ventilators, the organisation of Covid-19 testing, Test & Trace Service, and consultancy. There are also contracts relating to education sector initiatives, such as the Free School Meal Voucher Scheme.

Concerns have been raised about the performance of these outsourced services, and about lack of transparency of some procurement processes.

Background on the range of contracts involved in the Government's Covid-19 response can be found in the National Audit Office (NAO) report, [Investigation into government procurement during the COVID-19 pandemic \(November 2020\)](#). The NAO noted that “in responding to the COVID-19 pandemic, public bodies have needed to procure enormous volumes of goods, services and works with extreme urgency.” It identified the main procurement risks associated with these contracts:

- potential unequal treatment of suppliers in procurement processes
- poor procurement practices due to procuring at speed (for example, retrospective contract awards, a lack of documentation around key procurement decisions, lack of documentation on the management of (potential) conflict of interest)
- lack of transparency over what contracts were awarded and how.¹

The NAO noted that these risks have to be seen in the context of the broader risk of not being able to secure necessary supplies in time.

Covid-19 procurement and extreme urgency

The public sector's broad approach to public procurement is to seek value for money. This is [achieved through competition](#), unless there are compelling

¹ NAO, [Investigation into government procurement during the COVID-19 pandemic](#), HC959, 26 November 2020, para 3.2

reasons to the contrary. Contracting authorities – from departments to local authorities and other public sector bodies – have to organise tenders according to government procurement rules (see Box 1).

Box 1: Public procurement rules

UK public authorities are bound by [government procurement rules](#) set out in UK law. The aim of procurement is to seek value for money, best achieved through competition, unless there are compelling reasons not to do so.

Generally, the strictest procurement rules apply to government purchases of goods, services and works above a certain threshold (roughly £123,000 for goods and services purchased by central government bodies and £4,7 million for works contracts). Also, below that threshold public procurement is subject to general principles which follow from UK's international obligations. These include the principle of non-discrimination, equality of treatment, transparency and proportionality.

The relevant rules are compiled on the Gov.uk website containing [public procurement rules and policy guidance](#). See the Library briefing on [public procurement and contracts](#) for further detail.

Transparency

Under the transparency requirements of the [Public Contracts Regulations 2015](#), public sector contract opportunities and notices of contract awards worth over £10,000 should in general be published on the [Contracts finder website](#). [Scotland](#), [Wales](#) and [Northern Ireland](#) have their own procurement websites. From 1 January 2021, high value contracts (above £118,000) have to be published through the [Find a Tender service](#).

Outsourcing

The Government has published an updated policy guidance on outsourcing, [The Sourcing Playbook V.3](#) (May 2021). The guidance focusses on how to choose the best model for delivering public services, whether this is done 'in-house', outsourced to a third party, or through a mixed model.

The new [Consultancy Playbook](#) (May 2021) provides guidance on sourcing consultancy services and using them effectively.

Procurement Reform

The Government has put forward [a Green Paper with proposals to reform procurement rules](#) and is expected to come with [new legislation](#) during this Parliament.

In response to the Covid-19 pandemic, in March 2020 the Government published a [Procurement Policy Note 01/20](#), which sets out options available to contracting authorities within the procurement law. The Government noted that under the exceptional circumstances of the pandemic, authorities may

need to procure goods, services and works with extreme urgency.² Thus, many contracting authorities have relied upon amended and expedited procurement procedures, such as direct awards without advertising the procurement via a prior notice. These amended procedures are available under the UK [Public Contracts Regulations 2015](#) in exceptional situations.

Regulation 32(2)(c) of UK [Public Contracts Regulations 2015](#) provides that a contracting authority is allowed to negotiate with a contractor, without prior publication

insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.

While there is no explicit limit to the length of a contract under this regulation, the law around this procedure must be interpreted strictly.³ The Government advice is to limit what is being procured and the length of contract to only what is absolutely necessary.⁴

During the pandemic, contracting authorities can also use other [procedures](#), for example, a call off from an existing framework agreement, where potential suppliers have been pre-selected in an earlier competition. Other options include accelerating the timescales of standard procedures, or extending or modifying existing contracts.

The Government issued a further guidance on procurement in emergency ([PPN 01/21](#)) on 4 February 2021. This procurement policy note builds on the previous guidance, PPN 01/20. It reminds of the commercial risks associated with direct awards without competition. It also notes that most contract award notices, including direct awards under regulation 32(2)(c), have to be published on [the Find a Tender service](#).

Referring to lessons learned during the pandemic, [The Green Paper on Transforming public procurement](#) contains proposals, which clarify the rules on procurement in the case of crisis or extreme urgency, and strengthen transparency requirements.⁵

NAO reporting

The NAO has investigated government procurement during the COVID-19 pandemic, including the use of emergency procurement regulations. Its report [Investigation into government procurement during the COVID-19](#)

² Cabinet Office, [Procurement Policy Note PPN 01/20 - Responding to COVID-19](#), March 2020

³ Prof Sue Arrowsmith, *The Law of Public and Utilities Procurement: Regulation in the EU and UK: Volume 1* (Third Edition, 2014), paras 10-18 to 10-22

⁴ Cabinet Office, [Procurement Policy Note 01/20](#), March 2020, p4

⁵ Cabinet Office, [Green Paper on Transforming Public Procurement](#), CP 353, December 2020, Chapter 3; PQ [174284](#) [Cabinet Office Procurement Process Review], 23 March 2021

[pandemic](#), covering the period up to 31 July 2020, was published on 18 November 2020. The NAO concluded:

In the months following the emergence of the COVID-19 pandemic in March 2020 in the UK, government awarded around £18 billion of contracts using emergency procurement regulations to buy goods, services and works to support its response to the pandemic. Government was having to work at pace, with no experience of using emergency procurement on such a scale before and was developing its approach at the same time as procuring large quantities of goods and services quickly, frequently from suppliers it had not previously worked with, in a highly competitive international market. This procurement activity secured unprecedented volumes of essential supplies necessary to protect front-line workers. Our separate report on the supply of PPE looks in detail at the extent to which demand for that equipment was met and the value-for-money achieved.

While government had the necessary legal framework in place to award contracts directly, it had to balance the need to procure large volumes of goods and services quickly, with the increased commercial and propriety risks associated with emergency procurement. We looked in detail at a sample of contracts selected on a risk basis. Although we found sufficient documentation for a number of procurements in our sample, we also found specific examples where there is insufficient documentation on key decisions, or how risks such as perceived or actual conflicts of interest have been identified or managed. In addition, a number of contracts were awarded retrospectively, or have not been published in a timely manner. This has diminished public transparency, and the lack of adequate documentation means we cannot give assurance that government has adequately mitigated the increased risks arising from emergency procurement or applied appropriate commercial practices in all cases. While we recognise that these were exceptional circumstances, there are standards that the public sector will always need to apply if it is to maintain public trust.

On 19 November, the Cabinet Office [published a statement in response to the NAO report](#). It said that the Government has always accepted that there are lessons to be learned from how it responded to the pandemic and the government was “fully committed to doing so”.

The NAO’s reporting on Covid-19 procurement sits alongside its specific work on

- [The supply of personal protective equipment \(PPE\) during the COVID-19 pandemic](#), 25 November 2020
- [Investigation into the free school meals voucher scheme](#), 2 December 2020
- [Investigation into how government increased the number of ventilators available to the NHS in response to COVID-19](#), 30 September 2020

- [The government's approach to test and trace in England – interim report](#), 11 December 2020

Among other aspects, these reports have considered the ways in which respective government contracts have been awarded.⁶

Boardman reviews

In September 2020, the Cabinet Office [commissioned an independent expert review](#) in its communications services contracts during the Covid-19 pandemic. The first [Boardman report](#) was published in December. It made 28 recommendations to improve the Cabinet Office's procurement processes and the way government manages actual and perceived conflicts of interest.⁷

The Public Accounts Committee emphasised in its February 2021 report on PPE procurement that “the Government should ensure all the Boardman review recommendations are applied across government departments and procuring bodies.” The Committee also asked the Cabinet Office to update it on the progress in implementing the Boardman recommendations.⁸

A [second Boardman review of Government Procurement in the COVID-19 pandemic](#) (final report) explored similar themes but had a wider scope and covered five parts of the government's response to the pandemic: PPE, ventilators, vaccines, test and trace and food parcels for the clinically extremely vulnerable. These government programmes had been identified as areas where potential lessons could be learned regarding government procurement processes.

The starting recommendation of the second Boardman review is to ensure “stronger, more comprehensive and responsive contingency planning”. Many of the other, more detailed recommendations follow from this. The 28 recommendations cover five broad themes: preparedness and strategy, organisational structures, resourcing, purchasing, and governance and regulation.⁹

Nigel Boardman notes regarding suspicions that some contracts may be awarded based on favouritism:

Whilst acknowledging that my review is not a forensic investigation, I have not seen evidence that any contract within the scope of the review

⁶ For other NAO reports on the Government's response to the Covid-19 pandemic see NAO's [Covid-19 website](#)

⁷ [Boardman Report on Cabinet Office Communications Procurement](#), December 2020. At the time of reporting [Nigel Boardman](#) was a non-executive member of the Department for Business, Energy and Industrial Strategy (BEIS).

⁸ Public Accounts Committee, [Forty-Second Report - COVID-19: Government procurement and supply of Personal Protective Equipment](#), HC 928, 10 February 2021, p6; for more detail of the report see section 2.3 below.

⁹ [Boardman Review of Government COVID-19 Procurement \(final report\)](#), May 2021

was awarded on grounds of favouritism. In my view there are, however, factors which may have encouraged such a suspicion. These are:

- the use, in relation to PPE, of a fast track email address available to members of parliament and others (which was initially referred to as the VIP lane);
- the time taken to publish contracts awarded during the crisis;
- lack of public understanding of the regulation 32 emergency procurement procedure;
- the prices paid for emergency purchases, which were higher than market prices in non-pandemic times;
- the failure (or perceived failure) of some of the purchased stock to be fit for use;
- incomplete record keeping, including in relation to conflicts of interest; and
- certain counterparties being associated with the Governing party. These points are all addressed in the report, alongside some observations on procedural improvements which may reduce the risk of criticism in these areas in the future.¹⁰

The Government has [accepted all Boardman recommendations](#). It has written to the Public Accounts Committee and the Public Administration and Constitutional Affairs Select Committee about its progress in adopting the recommendations. It has said that the majority of the [recommendations of the first report have been fully or partly implemented](#) by the end of April 2021 and has agreed to keep the select committees informed on further steps.¹¹

Legal action

The [Good Law Project](#) (GLP), a not-for-profit organisation, has initiated [legal action](#) against the Government with regard to Covid-19 procurement, including several specific [Covid-19 related contracts](#).¹² A cross-party group of MPs signed a GLP pre-action letter which alleged that the Government was

¹⁰ [Boardman Review of Government COVID-19 Procurement \(final report\)](#), May 2021,

¹¹ [Letter from the Chief Operating Officer for the Cabinet Office to the Chair of the Public Administration and Constitutional Affairs Select relating to the first Boardman Review](#), [Progress in implementing recommendations of the first Boardman review], 13 May 2020
[Letter from the Cabinet Office to the Chair of the Public Accounts Committee relating to the Nigel Boardman review of Cabinet Office procurement practices](#), [Boardman review of procurement part 2], 4 May 2020

¹² Financial Times, [UK government faces legal action over £102m face mask deal](#), 21 April 2021

responsible for a “persistent and unlawful” failure to disclose details of huge sums of money spent on contracts for personal protective equipment.¹³

At the time of this debate, the High Court has ruled in two cases initiated by the GLP. On 21 February 2021, [the High Court ruled](#) that the Secretary of State for Health and Social Care “acted unlawfully by failing to comply with the Government’s Transparency Policy.” The Government had failed to publish details of a significant number of contracts awarded without competition during the Covid-19 pandemic in the timescales required by the regulations.¹⁴

In a separate proceeding, the High Court [ruled on 9 June 2021](#) that the Cabinet Office decision of 5 June 2020 to award a contract worth more than £500.000 to a research firm Public First “gave rise to apparent bias” and was unlawful.¹⁵ According to The Telegraph, the High Court ruled that “the Cabinet Office did not do enough to show that its decision to award the contract was awarded fairly, and that there was a “danger” that an informed observer could think it was biased.”¹⁶

1.2 Data on contracts

The National Audit Office identified 8,652 contracts awarded by 31 July 2020 related to government’s response to the pandemic, with a value of £18.0 billion.

Of these contracts:

- £16.2 billion of these contracts were awarded by the Department for Health & Social Care group (for example NHS England)
- £556 million were awarded by the Department for Education group
- £279 million were awarded by the Cabinet Office group
- £263 were awarded by the Department for Work and Pensions group

By value, most of the contracts were for PPE (£12.29 billion), followed by testing and tracing (£2.98 billion), accommodation and food (£0.70 billion) and IT and telecoms (£0.49 billion).

¹³ The Guardian, [Cross-party MPs to sue UK government for details of Covid PPE contracts](#), 23 August 2020; BMJ, [Covid-19: MPs launch legal action against government over failure to disclose details of PPE contracts](#), 25 August 2020

¹⁴ [2021] EWHC 346 (Admin); BMJ, Covid-19: Hancock’s failure to publish contracts was unlawful, 19 February 2021

¹⁵ [2021] EWHC 1569 (TCC); Financial Times, [Court rules UK acted unlawfully with contract to Cummings-linked firm](#), 9 June 2021

¹⁶ The Telegraph, [Government acted unlawfully over Covid contract awarded to friends of Dominic Cummings, court rules](#), 9 June 2021

For more information on procurement during the first few months of the pandemic see Part 2 of NAO, [Investigation into government procurement during the COVID-19 pandemic](#), 26 November 2020.

More recent data on contract awards is available from Tussell. Tussell analyses published government transparency information (which can be patchy). They have identified £31.2 billion in awarded contracts.

See Tussell's [Latest Updates on UK Government COVID-19 Contracts and Spending](#), 2 June 2021 for more, including a chart of contract awards for different types of products over time.

1.3 NHS PPE procurement

How is PPE normally procured by the NHS in England?

The Institute for Government explains the role of the Department of Health and Social Care (DHSC), NHS England and Public Health England (PHE)¹⁷ in the procurement of goods¹⁸ and services:

DHSC is responsible for setting the budget and top-line objectives of the NHS and is ultimately accountable for NHS procurement. In relation to pandemics it determines what is included in the national pandemic stockpile.

NHS England, which is legally independent of DHSC, oversees the commissioning of NHS services and sets strategy.

Public Health England, an executive agency of DHSC, is responsible for dealing with public health emergencies. It issues guidance on who should wear PPE, jointly with DHSC and other bodies, and maintains the national pandemic stockpile.¹⁹

The NHS Supply Chain was established in 2006 by the then Department of Health, in response to variation in procurement and operational inefficiency across the NHS.²⁰ NHS Supply Chain manages the sourcing, delivery and supply of healthcare goods, services and food for NHS trusts and healthcare organisations across England and Wales.

¹⁷ The government has announced that a new organisation, the National Institute for Health Protection will bring together PHE, NHS Test and Trace and the Joint Biosecurity Centre under a single leadership team. See: Gov.uk press release, [Government creates new National Institute for Health Protection](#), 18 August 2020

¹⁸ In this context, 'goods' refers to equipment and medicines. With regard to the pandemic, equipment has largely consisted of PPE and ventilators.

¹⁹ Institute for Government, [NHS procurement](#), 27 April 2020

²⁰ NHS Supply Chain, [About NHS Supply Chain- More Details](#), accessed 17 June 2021

The NHS Supply Chain website sets out the basis for its operating model:

The new NHS Supply Chain operating model, launched fully in 2019, is aligned to Lord Carter of Coles independent review of unwarranted variation in procurement across a fragmented NHS procurement landscape, widespread price variation and lack of consistency in the range of consumables used in the delivery of patient care. The model aims to deliver savings of £2.4 billion back into the NHS by 2023 / 2024, leveraging the buying power of the NHS to drive savings and provide a standardised range of clinically assured, quality products at the best value through a range of specialist buying functions. Its aim is to leverage the buying power of the NHS to negotiate the best deals from suppliers and deliver savings back into NHS frontline services.²¹

The NHS Supply Chain aims to “leverage the buying power of the NHS to negotiate the best deals from suppliers and deliver savings of £2.4 billion back into NHS frontline services by the end of the financial year 2022/23”.²² It identifies a number of benefits of this model for NHS Trusts and suppliers, including savings being redirected to frontline services and a single route into the national market.²³

A limited company, Supply Chain Coordination Limited, was formed in 2018 and acts as the management function of the NHS Supply Chain.

[The NHS Supply Chain 2021-2022 Business Plan](#) sets out its key objectives which are centred on customer focus, supply chain resilience, safety, sustainability, efficiency and partnership.

Concerning the response to Covid-19, the NHS Supply Chain has said it has learnt lessons and taken action to increase the resilience of its supply chain:

In common with other healthcare organisations, we’ve learnt lessons over the past year during the COVID-19 pandemic and have put in place measures to increase the resilience of our supply chain which serves every NHS trust. We continue to monitor and where necessary increase stockholding levels in our warehouses and with our suppliers for high demand product categories. This helps ensure that products are available to order.²⁴

PPE procurement during the Covid-19 pandemic

In May 2020, the DHSC [wrote to](#) chief financial officers and regional directors in the NHS to provide an update on how the DHSC and cross-government colleagues were seeking to distribute supplies, including PPE, throughout the

²¹ NHS Supply Chain, [About NHS Supply Chain- More Details](#), accessed 17 June 2021

²² NHS Supply Chain, [Clinically-led changes result in savings of more than £450,000 annually for NHS trust](#), 19 March 2021

²³ NHS Supply Chain, [Customer guide. How to get more from our services \(p3\)](#), 9 December 2019

²⁴ NHS Supply Chain, [About NHS Supply Chain- More Details](#), accessed 17 June 2021

country.²⁵ The letter stated that the UK Government would procure and distribute items nationally, rather than allow individual NHS organisations to compete with each other for supplies

A [PPE Dedicated Supply Channel](#) was established in response to the pandemic in order to ensure that PPE supplies were maintained. The service, set up by NHS Supply Chain, the Ministry of Defence, Unipart Logistics and Clipper Logistics, manages the core PPE requirements for:

- All hospital trusts, both acute and community
- Mental health and ambulance trusts
- The wider community requirement

[Guidance](#) issued by the DHSC sets out which organisations may use the portal, order PPE, and provides information about how much PPE may be ordered.²⁶

Public Accounts Committee report on PPE procurement

Following the NAO reports [Investigation into government procurement during the COVID-19 pandemic](#) (26 November 2020) and [The supply of personal protective equipment \(PPE\) during the COVID-19 pandemic](#) (25 November 2020) the Public Accounts Committee launched an Inquiry on PPE procurement.

The Public Accounts Committee's [Forty-Second Report - COVID-19: Government procurement and supply of Personal Protective Equipment](#) (10 February 2021) highlighted a number of concerns about the Government's management of PPE supplies during the pandemic.²⁷ Issues raised in the report included:

- Concerns about the sufficiency of the Government's pre-pandemic stockpile;
- Reports from health and care staff that they ran out of PPE;
- That some of the PPE supplied did not meet the necessary standards;
- That the prioritisation of PPE supply to hospitals caused reduced PPE availability in social care;
- The methods used by the Government's buying team to assess offers for PPE supplies and the design of the 'high priority lane'; and

²⁵ [Letter to trust procurement directors](#), Jonathan Marron & Emily Lawson, DHSC, 1 May 2020,

²⁶ DHSC, [PPE portal: how to order COVID-19 personal protective equipment \(PPE\)](#), last updated 18 May 2021

²⁷ House of Commons Public Accounts Committee, HC 928, [Forty-Second Report - COVID-19: Government procurement and supply of Personal Protective Equipment](#), 10 February 2021

- The way in which Government PPE contracts were awarded and a subsequent lack of transparency²⁸

The Committee concluded that the Government's response to the need to procure PPE and other goods and services very quickly 'opened up significant procurement risks'.²⁹

The Committee made a number of recommendations relevant to PPE procurement, summarised broadly as:

1. The Government should ensure that all Boardman review recommendations are applied (section 1.1 of this paper provides more detail)
2. The DHSC must improve its approach to managing and distributing PPE stocks
3. The Cabinet Office and DHSC should publish and share the lessons it has learnt from PPE procurement during the pandemic
4. The DHSC should explain how it will revise its emergency response plans with respect to supplying PPE to non-hospital health and social care settings and other occupations which are also at risk
5. The DHSC should undertake work to understand the experience of frontline staff, including determining the extent of PPE shortage, disparities between the reports of PPE shortage from health and social care staff and their employing organisations, reported disparities in the experience of Black and minority ethnic staff with respect to PPE access and testing, and links between PPE shortages and staff deaths and infections
6. The DHSC should set out how it will use the PPE it has ordered, incentivise the buying of PPE produced in the UK and ensure resilience in the supply chain where UK manufacturers cannot supply PPE
7. The DHSC should provide detailed information about its PPE stockpile
8. The DHSC should provide detail on the number and value of contracts for which it is seeking to recover costs due to undelivered or substandard PPE³⁰

The Committee asked the DHSC to write back and report on its progress in meeting the recommendations.

The DHSC [wrote to the Committee](#) on 28 April 2021 providing an update on its progress in meeting the Committee's recommendation to revise its emergency

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

response plan, setting out detailed information about the measures it had implemented to meet the increased demand for PPE.³¹

1.4 Test and Trace

A ‘Test and Trace’ system in England was launched on 28 May 2020 and has subsequently further developed an NHS contact tracing app.³² There are separate systems in operation in [Northern Ireland](#), [Scotland](#) and [Wales](#).³³ These programmes aim to ensure that those with symptoms of Covid-19 can access a test quickly and that, if a person tests positive, those people they have had close contact with can be alerted and given advice on the next steps to take.

Questions about the performance of the test and trace system in England have been raised since its launch.³⁴ There has also been an ongoing debate about the role of the private sector.³⁵ As in other areas of the Government’s response to the pandemic, the Government and other public sector bodies have outsourced many parts of management and delivery of testing and contact tracing. The Department of Health and Social Care contracted with Serco and Sitel to provide a national system of contact tracers and call centres. The NAO note that grants have also been provided to local authorities to support their Covid-19 response, which could include tracing activities.³⁶

The Health Foundation have described how pillar 2 testing (which are tests taken by [members of the public](#)) is delivered through a range of public sector, academic and commercial partnerships. Examples include operational delivery from the army and companies such as Deloitte and G4S, recruitment of testing staff using Sodexo, testing kits through Randox, logistics with Amazon, and processing involving university laboratories as well as companies such as AstraZeneca and GlaxoSmithKline.³⁷

In July the BMA published [COVID-19: the role of private outsourcing](#), which highlighted the reliance on private companies in the building up of testing and laboratory capacity. The BMA report raised concerns that the development of a parallel system of privately run centres bypassed the

³¹ DHSC, [Letter to the Public Accounts Committee Chair](#), 28 April 2021

³² Further, detailed information about Test and Trace is available from the Department of Health and Social Care: [Guidance: NHS test and trace: how it works](#).

³³ NI Direct Government Services, [Coronavirus \(COVID-19\): testing and contact tracing](#); Scottish Government, [Coronavirus \(COVID-19\): Test and Protect](#); Welsh Government, [Test Trace Protect](#).

³⁴ [The NHS test-and-trace system 'not fully operational until September'](#), The Guardian, 4 June 2020; [Test and trace failing to contact thousands in England's worst-hit areas](#), The Guardian, 23 July 2020

³⁵ [Exclusive: NHS Labs Were Frozen Out Of Coronavirus Testing Programme, Says Top Scientist](#), Huffington Post, 14 May 2020

³⁶ NAO, [The government’s approach to test and trace in England – interim report](#), 11 December 2020

³⁷ The Health Foundation, [NHS Test and Trace: the journey so far](#), 23 September 2020

existing network of NHS labs and encouraged competition for scarce testing supplies. The BMA also referred to initial difficulties in sharing test results with local authorities and GP practices, and performance issues with delayed results from Lighthouse laboratories.

Alongside a number of NHS organisations, Oxford University, and the Alan Turing Institute, a number of private companies including Accenture, have also been involved in the development of the [NHS Test and Trace app](#).

PQ responses indicate that as of 18 January 2021, NHS Test and Trace (NHST&T) has signed 407 contracts worth £7 billion with 217 public and private organisations.³⁸ The NAO published an [interim report on the Government's approach to test and trace in England](#) in December 2020 (the final report is due in Summer 2021). It estimated the Government would sign 154 contracts worth £16.2 billion between November 2020 and March 2021 (with not all that spending occurring before the end of the financial year). The NAO said 70% of early contracts by value were assigned as direct awards without competition under emergency measures. The NAO interim report also referred to an internal government review of 15 other countries' test and trace approaches, which noted that some had also used private sector outsourcing to increase testing capacity, but none had done so to increase tracing capacity, which was generally built up from existing tracing and public health expertise.³⁹

In March 2021 the Public Accounts Committee, in its report [COVID-19: Test, track and trace \(part 1\)](#), acknowledged the pressures involved in establishing an entirely new service at speed but said that it had remained over-reliant on commercial management consultants. The Committee also criticised the Government's decision to establish an outsourced national system, and the delay in involving local authority public health teams.⁴⁰

[The Government's response to the PAC interim report](#) noted that the pandemic presents a uniquely unpredictable challenge and that NHST&T therefore needs to have sufficient surge capacity to be able to respond swiftly and accurately to increases in demand. The Government said that NHST&T has built more flexibility into commercial contracts with laboratories, "improving value for money while still allowing capacity for surge". For contact tracing, it said NHST&T has negotiated flexible contracts with commercial providers "to allow numbers to be scaled up and down while retaining a pool of surge capacity to support local public health colleagues with sudden outbreaks".⁴¹

³⁸ [PQ140313, 24 March 2021](#)

³⁹ NAO, [The government's approach to test and trace in England – interim report](#), 11 December 2020, p9

⁴⁰ Public Accounts Committee, [COVID-19: Test, track and trace \(part 1\)](#), (HC 932, 2019-21), 10 March 2021. See also Institute for Government, [Gaps in policy, not just operational failings, are the problem with Covid test and trace](#), 12 March 2021

⁴¹ [Government responses to the Committee of Public Accounts on the Forty-Fifth to the Fifty First reports from Session 2019-21, CP434, May 2021](#), p15

With regard to management consultant support for NHST&T, the Government's response said that they offer "quick access to expertise that may otherwise be difficult to recruit – either quickly or indeed at all" but acknowledged that they need to be used selectively. The Government noted that NHST&T has therefore established a "consultancy ramp-down plan", based on current demand assumptions, which aims to reduce the number of consultants by over 40% between March 2021 and December 2021.⁴²

Further background can be found in the [Library debate pack briefing on Covid-19 contracts and public procurement](#) (October 2020) and the [Library briefing paper on testing for Covid-19](#) (October 2020).

⁴² Ibid. p16

2 Parliamentary material

2.1 Written questions

[Procurement: Coronavirus: Question for Department of Health and Social Care: UIN 186240](#)

Asked by Dan Carden

Asked on 23 April 2021

To ask the Secretary of State for Health and Social Care, what progress he is making on publishing the names of (a) companies which went through the high-priority lane for covid-19 contracts and (b) the people who referred those companies.

Answered by Jo Churchill

Answered on 29 April 2021

We have no plans to publish a list of suppliers as there may be associated commercial implications. The Department has to consider the position of suppliers in terms of the recognition that disclosure of their names may damage the supplier's reputation, affecting their competitive position and could have a potentially detrimental impact on their revenue. We also have no plans to publish the names of those who referred those companies as this would make it less likely that individuals would provide the Department with commercially sensitive information in the future and consequently undermine the ability of the Department to fulfil its commercial role.

Contract Award Notices and the contracts themselves have now been published for all personal protective equipment contracts awarded by the Department which contain the details of the supplier, the value of the contract and the items ordered under the contract.

[Procurement: Coronavirus: Question for Cabinet Office: UIN 186242](#)

Asked by Dan Carden

Asked on 23 April 2021

To ask the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, (a) in what way and (b) to whom was the high-priority lane for covid-19 contracts advertised.

Answered by Julia Lopez

Answered on 28 April 2021

There are well-established procedures set out in the Public Contracts Regulations 2015, the legal framework governing public procurement, to enable contracting authorities to procure goods, services and works with extreme urgency in exceptional circumstances.

Indeed, being able to procure at speed has been critical in providing the Government's response to the COVID-19 pandemic. However we have always made it clear that all contracts, including those designed to tackle coronavirus issues, must continue to achieve value for money for taxpayers, use good commercial judgement and the details of any awards made should be published in line with Government transparency guidelines.

We have issued further updated guidance, Procurement Policy Note – Procurement in an Emergency ([PPN 01/21\(opens in a new tab\)](#)) reminding contracting authorities of the options available to them when undertaking procurements in an emergency.

Along with the above, we have recently published detailed proposals for a new and improved regulatory regime for public procurement, taking advantage of new freedoms now that we have left the EU. While these proposals have long been in development, they include specific measures to strengthen transparency throughout the commercial lifecycle.

The Government has published a statement on [gov.uk](#) following the National Audit Office report.

[Department of Health and Social Care: Contracts: Question for Department of Health and Social Care: UIN 185931](#)

Asked by Deidre Brock

Asked on 22 April 2021

To ask the Secretary of State for Health and Social Care, how many contracts his Department has issued without tendering since the start of the covid-19 outbreak; what the total value is of those contracts; how many of those contracts required advance payment of some or all of the costs; and in how many cases the supplier has failed to fulfil the contract.

Answered by Jo Churchill

Answered on 28 April 2021

As of 1 April 2021, award notices have been published for 1,151 contracts worth an estimated £19 billion by the Department in response to the pandemic for a

wide range of products and services. The majority of these contracts have been let using a direct award. Contract Award Notices are published for each contract which contain information on the reasons for the selected procurement route, the value of the contract, its duration and the name of the supplier.

Advanced payments have been used on a number of personal protective equipment contracts. Each contract is different as some are payment on delivery and others have permitted a percentage of payment upfront. Our approach has been to take some managed risk in order to secure supplies in an exceptional and globally highly competitive market. Contracts have break clauses in them, meaning if the company supplies faulty products or misses delivery dates, we can cancel the contracts and reclaim the money.

Different commercial teams within the Department are responsible for managing these contracts in terms of negotiating with suppliers for refunds or other forms of redress against the supplier. This information is not currently collated and held centrally, consequently to provide a validated assessment of how many suppliers the Department has reclaimed money from would involve disproportionate cost.

[Public Sector: Procurement: Question for Cabinet Office: UIN 913904](#)

Asked by Rebecca Long Bailey

Asked on 25 March 2021

What steps his Department is taking to improve transparency in procurement in its response to the covid-19 outbreak.

Answered by Julia Lopez

Answered on 25 March 2021

The government recognises the importance of maintaining public confidence in how we manage taxpayers' money and I have set out before the challenges we faced in our response to the covid 19 outbreak. We are taking steps to improve the processes already in place and ensure public spending is fair and transparent.

Proposals in the Green Paper aim to improve transparency in procurement across the public sector and include specific measures to strengthen transparency through the commercial lifecycle from planning through to procurement, contract award, performance and completion.

We are also taking forward all 28 recommendations from the independent Boardman report to set out areas for improvement within the Cabinet Office's own internal contracting procedures.

We have also made KPI data on 379 contracts available to the public, as a further step towards greater transparency.

[Public Sector: Procurement: Question for Cabinet Office: UIN 176087](#)

Asked Navendu Mishra

Asked on 25 March 2021

To ask the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, what steps the Government is taking to (a) ensure and (b) oversee compliance in respect of the award by contracting authorities of commercial contracts to businesses that supply public bodies and that have been deemed to be at risk under the terms of procurement.

Asked by Julia Lopez

Answered on 13 April 2021

The overarching principle in all public procurement is to secure the best value for money for the taxpayer. While individual departments are responsible for their own commercial decisions, including the award and monitoring of contracts, there are rigorous due diligence processes in place.

The Cabinet Office continuously reviews the performance of strategic suppliers and works closely with those suppliers and their customer Departments to improve performance, ensure value for money and deliver policy objectives while reducing risk across outsourced public services.

At the beginning of the covid-19 pandemic, we issued guidance (PPN 02/20) on 'supplier relief' measures ensuring service continuity during the pandemic. Further guidance, published in June, updated PPN 02/20 and set out how contracting authorities should put in place transition plans with their suppliers to exit any contractual relief and transition to a new, sustainable, operating model taking into account strategic and reprioritisation needs.

[Cabinet Office Procurement Processes Review: Question for Cabinet Office: UIN 174284](#)

Asked by Fleur Anderson

Asked on 23 March 2021

To ask the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, what progress the Government has made on implementing the recommendations of the Boardman Review on Cabinet Office procurement processes, published on 8 December 2020.

Answered by Julia Lopez

Answered on 13 April 2021

Regulation 32 of the Public Contracts Regulations 2015 sets out the grounds in which contracting authorities can procure goods, services and works with extreme urgency in exceptional circumstances. In our recently published Green Paper, we have set out our proposals to clarify these rules, learning from the experience in the pandemic.

The process of implementing the Boardman recommendations began immediately, and the programme is being assured by the Cabinet Office Audit and Risk Committee. We committed to provide an update on implementation six months after publication.

All G-Cloud suppliers must publicly show their security certifications, standards and approach to personnel security on the Digital Marketplace. Suppliers must also maintain physical and IT security that follows good industry practice to ensure there is no unauthorised access to any confidential information and data. Along with this, suppliers must inform Crown Commercial Service of any data breaches within 48 hours and Crown Commercial Service has the power to undertake security audits of suppliers.

Transforming Government Procurement will make it easier to take into account issues relating to workplace rights and protections through aligning the value for money definition with that of the Green Book, and removing in certain circumstances the need for wider policy considerations to be linked to the subject matter of the contract.

2.2

Oral questions

[Covid-19: Government Contracts](#)

HC Deb 27 May 2021, c 524-25

[Covid-19: Government Transparency and Accountability](#)

HC Deb 22 April 2021, c 1185-1210

[Covid-19: Government's Publication of Contracts](#)

HC Deb 9 March 2021, c 655-671

[Transparency in Government Contracts: Covid-19](#)

HC Deb 11 February 2021, c 473

[Covid Contracts: Judicial Review](#)

HC Deb 24 February, 2021, c 915-932

2.3

Debates

[Covid-19: NAO Report on Government Procurement](#)

HC Deb 9 December 2020, c 390WH-415WH

[Personal Protective Equipment: Procurement](#)

HL Deb 19 November 2020, c 1539-1543

[Covid-19](#)

HC Deb 18 November 2020, c 383-430

2.4

Committee scrutiny

[Twenty-seventh Report - Covid-19: Supply of ventilators](#)

Public Accounts Committee, HC 685, 25 November 2020

[Uncorrected oral evidence: Procurement and public services](#)

HL Select Committee on Public Services, 20 January 2021

[Forty-First Report - COVID 19: the free school meals voucher scheme,](#)

Public Accounts Committee, HC 689, 5 February 2021

Government contracts during the Covid-19 outbreak

[Forty-Second Report - COVID-19: Government procurement and supply of Personal Protective Equipment](#)

Public Accounts Committee, HC 928, 10 February 2021

[Forty-Seventh Report - COVID-19: Test, track and trace \(part 1\)](#)

Public Accounts Committee, HC 932, 10 March 2021

[Initial lessons from the government's response to the COVID-19 pandemic](#)

Public Accounts Committee, ongoing inquiry

3

Press articles

[Consultants awarded over £600m of UK Covid contracts: Government spending on outsourcing more than third higher than previously disclosed](#)

Michael O'Dwyer

Financial Times, 4 May 2021

[Covid-19: One in five government contracts had signs of possible corruption, report finds](#)

Gareth Jacobucci

BMJ, 23 April 2021

[VIP lane for Covid suppliers left UK civil servants 'drowning' in non-credible bids: Court hears controversial scheme led to deluge of entries that failed to meet due diligence](#)

David Pegg

The Guardian, 22 April 2021

[Timeline: Covid contracts and accusations of 'chumocracy'](#)

BBC, 20 April 2021

[£19bn of UK Covid-related contracts awarded without seeking rival bids: Pressure grows on government to reinstate competitive tendering rules revoked at the start of the pandemic](#)

Gill Plimmer

Financial Times, 12 April 2021

[What is going on with government Covid contracts?](#)

Nicholas Barrett and Anthony Reuben

BBC, 5 March 2021

[Matt Hancock acted unlawfully by failing to publish Covid contracts: High court judge rules failure to publish details of contracts within 30 days was transparency breach](#)

David Conn

The Guardian, 19 February 2021

[Covid-19: Government failed to meet procurement standards when spending billions during pandemic](#)

Adrian O'Dowd

BMJ, 21 January 2021

[No competition for 99% of Covid contracts](#)

Oliver Wright

The Times, 28 January 2021

[Watchdog criticises government over awarding of £17bn Covid contracts: National Audit Office raises concerns over lack of transparency and potential conflicts of interest](#)

Tabby Kinder, Gill Plimmer and Jim Pickard

Financial Times, 18 November 2020

[The future of public spending: responses to covid-19](#)

Economist Intelligence Unit, 1 June 2020

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