



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt Hon Mel Stride MP
Chair of Treasury Committee
House of Commons, Committee Office, London SW1A 0AA
Via Email

1 April 2021

Dear Mel,

Investigation into government procurement during the Covid-19 pandemic

I am writing further to the Chancellor's letter of 28 December 2020 to set out more detail on the spending control framework we have applied throughout the crisis, how we have used it flexibly, as well as considering lessons we might take from where it has worked less well. The Chancellor also asked me to respond to the questions set out in your previous letter concerning government procurement, which can be found in Annex A.

Spending Control in the context of the COVID-19 pandemic

The COVID-19 pandemic has been a health emergency that has demanded a response without precedent, particularly in terms of speed and scale. As a result, it became clear very quickly that responding to the crisis would require HM Treasury to use the spending control framework more flexibly than it otherwise would have done.

In doing so we made a calculated judgement that the costs of expediting normal processes were outweighed by the benefits to front line workers in the NHS, care homes and beyond, as well as the health of our citizens. The consequence of an enhanced risk appetite is, of course, that risks are more likely to crystalize.

We have perhaps – despite some notable successes - seen this most in the procurement of PPE, in part as a result of the volatile nature of the market at the time. But this greater degree of tolerance has also brought huge benefits to the UK, as is currently evidenced by the remarkable roll out of our vaccines programme. As such, in retrospect, whilst there are always lessons to learn, I am confident that our approach was the right one in these extraordinary circumstances.

In the main, our more flexible approach manifested itself in three ways:



- First, we delegated more control to Accounting Officers in relevant departments and their individual judgements. At times, this has meant that we have had to seek assurances and risk mitigations after decisions were made, but it has made government more nimble in responding to departmental emergency spending asks. We sought to mitigate this risk by setting spending conditions.
- Second, we have provided departments with more generous spending envelopes and delegated authorities than we would in the course of ordinary business. Doing this supported rapid mobilisation of programmes and procurements, but will have resulted in less scrutiny than we would ordinarily have wanted to apply. Where possible we have created bespoke processes to increase assurance of spending as proposals develop to mitigate this.
- Finally, where an ask from a department exceeded the delegated authority we put in place, the Treasury turned round requests extremely quickly (often in hours when market conditions necessitated that we had to move quickly to meet the Prime Minister's ambitious commitments). Again, this led to less scrutiny than would be applied in a business-as-usual scenario, but has meant that the UK could react very quickly when the circumstances required it do so.

However, the basis on which an Accounting Officer makes decisions did not change – at all times they needed to be satisfied that a decision met the standards set out in *Managing Public Money (MPM)*.

Vaccines, Personal Protective Equipment (PPE) and Test and Trace

Vaccines

The government established a dedicated team to deal with vaccines approvals in March, which assisted with setting up the Vaccines Taskforce (VTF). The Treasury provided the VTF with a flexible, ring-fenced, multi-year spending envelope to enable the programme to take calculated risks, striking agreements with multiple vaccine developers and building a portfolio of vaccines.

In parallel we also established a bespoke ministerial panel on which I sit, to speed up decision-making on vaccine deals by bringing together relevant ministers from the Department for Business, Energy & Industrial Strategy (BEIS), Cabinet Office, the Department of Health and Social Care (DHSC), and HM Treasury in a single group. This has brought together several layers of approval to enable a quicker consideration on contracts with vaccine developers and for spend above BEIS' delegated limit. HM Treasury has often had to respond at pace in providing scrutiny and approval for vaccine deals that required urgent decision-making. For example, the processes I have described meant that



on 16 June I approved BEIS' recommendation to enter a Heads of Terms agreement with Pfizer/BioNTech within 24 hours and provided approval for two other Heads of Term agreements later that same week. This approach has been an essential part of the government's ability to operate in a highly competitive global market.

In addition to establishing the ministerial panel, HM Treasury also increased BEIS' delegated limit for vaccines, enabling the department to make quick decisions on smaller investments to bolster the UK supply chain. Despite global supply shortages and competition, this approach has proved effective for moving quickly and securing access to vaccines for the UK population, as well as assuring spending, and so remains in place: as you know the UK was the first country in the world to approve and begin deploying the Pfizer/BioNTech and Oxford/AstraZeneca vaccines.

PPE

In the early days of the pandemic, we had to procure huge volumes of PPE in the face of significant competitive global demand – the bulk of contracts were signed prior to July 2020. Upon request, the departmental delegation was set at the limit of the overall spending envelope, which increased quickly as global demand exceeded supply. The size of the envelope and number of transactions clearly increased commercial risk. To help mitigate this the Treasury required the Cabinet Office and DHSC clearance board to approve all deals.

As a result of this enhanced risk appetite and the government's decision to procure PPE necessary to meet the modelled Reasonable Worst Case Scenario, and as has been indicated in the NAO and PAC reports, there have been times when sub-optimal contracts were entered into, and the overall amount of PPE ordered will last beyond planned stockpile levels. DHSC now have much improved demand modelling and HM Treasury officials are working closely with the programme to consider options for reducing the stockpile and recouping spending on unused items. I also requested separate assurance processes to be set up to provide a channel for open and frank assessments of the progress and risks to the programme. While the majority of 20/21 funding was committed by July 2020, as mentioned above, moving forward standard delegations will apply to further PPE spending.

Test and Trace

In response to requests from the DHSC Secretary of State and the PM, Test and Trace was provided with an initial envelope to support the scale up of the programme to meeting the PM's testing ambitions. Initially, tighter delegations were imposed for internal



spending approval to ensure spending remained targeted as plans developed. Over time there was collective agreement to successive expansions of NHS Test and Trace, as we were told this was essential to the programme's ability to deliver the increased scale of testing required, and the programme's envelope was raised accordingly.

There have been challenges with this approach, and as with other spending in the pandemic, at times HM Treasury have not had chance to provide full scrutiny of contracts or proposals for new testing through business case processes. This would have resulted in delays to securing testing supply which is an essential pillar of our resistance against the virus. Over recent months these risks have diminished. We have a better clinical understanding of how rapid tests can be used to find cases that has informed testing strategies - for example SAGE analysis showing the importance of regular testing for health and social care workers¹ - and, as we have moved away from the critical expansion phase for the programme, it continues to build stronger internal controls. The move to raise commercial and spending delegations (explained in Annex A) reflected assurances from the Test and Trace Programme on the strengthened internal controls, and aligned spending delegations with wider DHSC limits.

Reflections and moving forward

There are of course important examples where greater scrutiny and challenge would have mitigated risks that have materialised, but we knew that possibility existed when we adopted a more permissive regime in response to the public health emergency this country faced.

That said, there are lessons to learn on how best to apply this kind of emergency control framework, so that we can face a future crisis even better prepared. I would highlight three key reflections:

- The government's collective ability to manage spending risks would have been improved with stronger information sharing, both in respect of the quality of data on demand for PPE across the public services from day one, and in the culture of sharing that information across government departments and the NHS. As the

¹ At SAGE 69 in their [consensus statement](#), SAGE advised: focussed, more frequent testing of people who are at higher risk of being infected (such as key workers, health and social care workers and people in high prevalence areas) is likely to have a bigger impact than less frequent testing of the whole population. This built on previous work from SAGE, including an analysis of the impact testing could have on R for different scenarios:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/926953/S0743_SPI-M-O_Statement_on_population_case_detection.pdf



NAO report into the supply of PPE noted, there was a lack of information on levels of stock in NHS trusts going into the pandemic, which resulted in poor data on local requirements. In addition, actual usage or “burn rates” of on the ground use in the first months of the pandemic was slow to emerge, meaning government was reliant on modelled rather than actual data, resulting in substantial stockpile levels being built up. The quality of management information and demand modelling has since improved. This is a good example of how the judgement of value for money differs during a pandemic and consequently DHSC acted on the best available, but imperfect, information to protect frontline workers. With hindsight this has resulted in surplus PPE and is an area where outside of a crisis HM Treasury would have expected to see improved data enabling better modelling more quickly.

- The support of Cabinet Office commercial experts in securing commercial value and structuring contracts has been significant, both when experts were embedded in programmes and through playing an external scrutiny role. Greater Cabinet Office external scrutiny earlier in the process would have increased challenge and reduced some lower value for money contracts particularly in the PPE programme and for Test and Trace.
- Where there is a need to work quickly, embedding HM Treasury and Cabinet Office officials into internal processes in spending departments is helpful in enabling earlier scrutiny of the data on which funding allocations are based.

Please see Annex A for responses to the questions set out in your letter concerning government procurement.

I hope the information set out in this letter and annexes will assist the Committee and serve to emphasise the further steps the government and HM Treasury are taking to ensure taxpayers’ money is well spent.

I am copying this letter to the Chancellor of the Exchequer, the Comptroller and Auditor General, Sir Tom Scholar, and Meg Hillier MP.

Best wishes,

A handwritten signature in black ink, appearing to read 'Steve Barclay', written over a light grey rectangular background.

RT HON STEVE BARCLAY MP



Annex A – Responses to questions

Whether all government procurements during the COVID-19 pandemic went through the Treasury Approvals Point (TAP) process and what did that entail?

Not all government procurements during the pandemic have been put through a TAP process, nor would they be in more normal times. As is usual practice, HM Treasury consent occurs within a spending framework that imposes delegated limits and a requirement to come to HM Treasury for the approval of novel, contentious, and repercussive spend. For significant spending decisions, TAP processes are undertaken when it is proportionate to do so. For other spending decisions, clearance may be given at spending team level or following a Ministerial decision. For certain elements of COVID-related spend it was not possible to hold TAP panels due to the volume of activity and the necessity of moving quickly. To give you two examples of how this worked in practice:

- For Test and Trace we agreed an initial programme envelope underpinned by analysis of initial costs and a best estimate of need at the time. This allowed DHSC to kick start procurement and establish NHS Test and Trace. The programme then developed an in-depth business case in line with the five-case model which HM Treasury scrutinised via a TAP. The TAP did not result in new funding but provided an opportunity for assurance that spending was targeted on the programme's objectives and underpinned by a sound financial and commercial strategy. This process has been supported by approval of individual business cases for spend above delegations.
- For PPE we chose not to hold a TAP to approve initial funding given the outcome and ambition of the programme was clear, but chose to hold regular assurance meetings to track spending, supply and provide challenge and scrutiny to the programme, in effect a more continuous and agile assurance process, although this was constrained by gaps in data referenced earlier.

Were there procedures that the Treasury would usually follow that it did not follow, or were some procedures curtailed, when it considered spending requests from other departments at this time?

The spending control framework has been applied throughout the past 9 months, but Treasury teams have used inbuilt flexibility to ensure that controls have not constrained the urgency of procurement critical to delivery of our Covid response. Upon request, we granted increased delegations in respect of some COVID-related spend such as



vaccine procurement and the NHS Test and Trace programme. The changes to delegations for NHS Test and Trace are included in the table below:

Spending control area	Level prior to September Review	Level agreed after review
All Spending	£100m within DHSC	£150m within DHSC
Commercial	£10m within DHSC	£150m within DHSC
Digital	Zero (standard GDS controls)	£20m within NHS T&T
Professional services	£200k within NHS T&T	£5m within NHS T&T
Senior Salary	Less than £150k within NHS T&T (standard senior salary controls)	< £250k within NHS T&T and a cap of 25 people above £150k

In addition, HM Treasury has worked with Cabinet Office to allow support to strategic government suppliers by providing up front approval of payment in advance of need, or amending terms, to allow contracts to be delivered under Non-Pharmaceutical Intervention (NPI) restrictions.²

In a small number of cases departments have sought retrospective approval for expenditure or contracts. Retrospective approvals operate on the same basis as ex ante approvals, with the same consideration of value for money concerns, and were granted for the vast majority of cases. In the small minority of cases that were not approved, departments have been reminded of their need to notify the NAO and will be detailed in Departmental Annual Reports and Accounts. In addition, we have refreshed and standardised the delegation letters sent to departments, with clear change control procedures included as well as working with internal governance arrangements in Departments and Arm's Length Bodies to ensure clarity for all concerned of when HM Treasury consents are required.

Why did HM Treasury not participate in the clearance board established by the Cabinet Office and the Department of Health and Social Care to approve new PPE contracts? (paragraph 3.8 of the NAO report)

As described above, a separate financial controls framework was agreed for PPE and therefore HM Treasury did not participate in the clearance board. Cabinet Office and HM Treasury attend both the monthly Oversight Committee meeting chaired by DHSC and the Assurance meetings, chaired by the Director General of Public Spending and attended

² <https://www.gov.uk/government/publications/procurement-policy-note-0220-supplier-relief-due-to-covid-19>



by the Infrastructure and Projects Authority, to share insight and work collaboratively to support the programme.

The NAO report (p. 19) notes that HM Treasury have entered 30 contracts, with a contractual value of £25m, in response to the COVID-19 pandemic. Did HM Treasury follow its own internal procurement procedures in agreeing these contracts? Were any of these procedures curtailed at this time?

The procurement of all contracts over £10k across the HM Treasury Group is managed by the Crown Commercial Service. We work closely with them through the procurement cycle to ensure contracts are awarded to suppliers who provide the best value for money, in accordance with regulations and relevant government procurement policies.

In normal times, the overwhelming majority of HM Treasury contracts are placed following normal internal procedures. The particular challenges brought about by the COVID-19 crisis have necessitated flexibility in the application of *MPM*. There have been a small number of exceptions where there was a specific business need to adapt routine procedures, with a view to mobilising support from suppliers rapidly. In these instances, proposals and decision making have been considered by relevant senior officials with appropriate authority to direct and scrutinise the award of a contract in a more condensed timeframe. Wherever there has been a need to continue working with suppliers beyond the initial period of the pandemic, the department has continued to apply its normal internal procedures for re-procurement activity.

Is HM Treasury considering changes to its procedures for scrutinising new spending in the light of the NAO Report?

On 18 December, my officials met with the NAO to discuss their reports into government procurement and PPE supply during COVID-19, and follow up sessions will be held on PPE, Test and Trace and vaccines. Further:

- The government (as detailed in November's Spending Review) is extending commercial spending controls, exercised by the Cabinet Office, to a number of arm's-length bodies (ALBs) that are currently exempt, including in DHSC. This will provide assurance that they have the basic elements of good governance in place, identify efficiencies, and will lay the groundwork for a future rolling programme of ALB reviews.
- HM Treasury has also developed the OSCAR II platform, which will be rolled out during 2021-22 to enable more users from across government to submit and interrogate financial data in near real time. This will support better spending



control by advancing towards a “single source of truth” for spending data. It will improve government capability in data exploration and analysis including when spending falls below delegated limits.

- Beyond the issues raised in the NAO report, the government is considering changes to procedures to make decision-making more effective for infrastructure delivery. Project Speed will meet the Prime Minister’s plans to deliver infrastructure better, greener and faster, while the upfront planning of assurance and approval milestones and the early involvement of functional expertise will improve the smoothness and efficacy of infrastructure delivery. Monitoring and evaluating projects using better data, meanwhile, will support continuous improvement and policy reform, helping us learn the lessons of past projects in support of our future ambitions.