Forty-Second Report of Session 2019-21

Department of Health and Social Care, Public Health England and Cabinet Office

COVID-19: Government procurement and supply of Personal Protective Equipment

Introduction from the Committee

In responding to the COVID-19 pandemic, government departments and public bodies have needed to procure enormous volumes of goods, services and works with extreme urgency, particularly personal protective equipment (PPE). The pandemic had an extraordinary impact on global demand and supply of PPE. Demand rocketed in March 2020 and, at the same time, global supply declined. The result was an extremely overheated global market, with desperate customers buying huge volumes of PPE often from new suppliers and pushing up prices. The Cabinet Office issued information and guidance on public procurement regulations in response to the pandemic, highlighting that departments and public bodies were able to procure goods, services and works with extreme urgency using regulation 32(2)(c) of The Public Contracts Regulations 2015. This regulation allows departments and public bodies to make direct awards of contracts to any supplier if they have an urgent requirement for goods, services or works due to an emergency, without undergoing a formal competition, subject to meeting certain criteria.

By 31 July 2020, the government had awarded over 8,000 contracts for goods and services in response to the pandemic, with a value of £18 billion. Most of these contracts (over 6,900) were for PPE. The PPE contracts had a combined value of more than £12 billion and committed the Department for Health and Social Care (the department) to buying around 32 billion items of PPE. The Department was working to build up a stockpile of PPE capable of lasting four months, in addition to meeting immediate needs. To identify suppliers that could provide this PPE, to support new UK manufacturers that had not previously made PPE, and to distribute the PPE to care providers, the Department created a new, parallel supply chain.

Based on two reports by the National Audit Office, the Committee took evidence, on 14 December 2020, from the Department of Health and Social Care, Public Health England and the Cabinet Office. The Committee published its report on 10 February 2021. This is the government's response to the Committee's report.

Relevant reports

- NAO report: *Investigation into government procurement during the COVID-19 pandemic* - Session 2019-21 (HC 959)
- NAO report: *The supply of personal protective equipment (PPE) during the COVID-19 pandemic* - Session 2019-21 (HC 961)
- PAC report: *COVID-19: Government procurement and supply of Personal Protective Equipment* - Session 2019-21 (HC 928)

Government responses to the Committee

1: PAC conclusion: ***Government's response to the need to very quickly procure PPE and other goods and services opened up significant procurement risks.***

1: PAC recommendation: ***Government should ensure all the Boardman review recommendations are applied across government departments and procuring bodies. The Cabinet Office should write to us by July 2021 outlining its progress in implementing the recommendations of the Boardman review and a timetable for implementing any outstanding recommendations.***

1.1 The government agrees with the Committee's recommendation.

Target implementation date: July 2021

1.2 The government takes its obligations around transparency, integrity, and ensuring value for money extremely seriously, and it is important that the public has confidence in the government's ability to manage taxpayers' money correctly. Work has already begun to implement the 28 specific recommendations from the *Boardman Report*, which has three broad themes:

- existing procurement law and policy for contracting in a time of crises;
- the Cabinet Office's own organisational process and governance in relation to this law and guidance; and
- the management of actual and perceived conflicts of interest in a procurement context.

1.3 In January 2021, the Cabinet Office published its updated policy on *procurement in an emergency*, to provide commercial teams across government with further information on the risks inherent in direct award without competition.

1.4 In response to the recommendations, the Cabinet Office's own Commercial Team is developing new processes and procedures to strengthen Cabinet Office systems, which will be supported by an accessible training offer for staff.

1.5 The Government Commercial Function is developing policy and guidance to augment existing processes in place to manage actual and perceived conflicts of interest and which will be applicable to all central government departments, their executive agencies and non-departmental public bodies. This will set out the roles and responsibilities of those involved in decision making, risk management and how provisions may be applied to suppliers. The Cabinet Office's own policy on managing actual and perceived conflicts of interest will build on this broader policy, for specific application across Cabinet Office.

2: PAC conclusion: ***While government had plans and a stockpile of PPE, this proved inadequate for the COVID-19 pandemic.***

2: PAC recommendation*: The Department must improve its approach to managing and distributing stocks of PPE to ensure the correct equipment gets to those who need it, when they need it. The Department should write to us by July 2021 to confirm that:*

- ***Stockpiles hold everything required as specified in the Department's plans.***
- ***Stock is checked regularly and there is a process for monitoring and replacing stock before it is out-of-date.***
- ***Stock is held in locations from which it can be distributed quickly when required***
- ***There are contingency plans to secure new items of clinical equipment which may be needed at short notice.***

2.1 The government agrees with the Committee's recommendation.

Target implementation date: July 2021

2.2 The department purchased personal protective equipment (PPE) in line with modelled demand covering; all potential customer groups and relevant categories of PPE, worst-case scenario assumptions guidance.

2.3 The government has increased UK manufacturing capability so UK firms can meet future demand at short notice.

2.4 The department now holds a four-month stockpile of COVID-critical PPE to mitigate against demand fluctuations. A flexible UK logistics network has been developed, using long and short-term storage facilities. The department has a network of warehouses that hold, pick and distribute PPE. These draw stock from an array of short notice, onshore storage facilities, together with our offshore warehouses in China.

2.5 Stock is tracked, monitored and managed at a product-level across the UK to meet upcoming requirements; a rolling stock take is conducted in core warehouses. Processes are in place to review the quality of all the PPE the government has bought. This process determines whether products are suitable to be released to the frontline. Any that cannot, are subject to further investigation.

2.6 The department will make information available in due course confirming the future approach for the stockpile management of PPE.

2.7 The department is reviewing its countermeasures for disease outbreaks and pandemics, including PPE. This review will revisit the recommended specifications and volumes based on expert advice. It will build on the experience of COVID-19 to recommend procurement, storage, monitoring and distribution models to ensure that stock is in good quality and can be rapidly deployed in sufficient quantities when needed.

3: PAC conclusion: ***The high-priority lane was not designed well enough to be a wholly effective way of sifting credible leads to supply PPE.***

3: PAC recommendation*: The Cabinet Office and the Department should by July 2021 publish the lessons it has learnt from the procurement of PPE during the pandemic for future emergencies and disseminate these lessons to the wider government commercial function. This should include guidance for determining what is considered a credible offer and how this is communicated to potential suppliers.*

3.1 The government agrees with the Committee's recommendation.

Target implementation date: July 2021

3.2 The government has consistently stated that it will review its response to procurement during the pandemic and learn lessons from its response to this unprecedented event.

3.3 The Cabinet Office's updated policy on *procurement in an emergency* includes further information on managing the risks inherent in direct award without competition and guidance on additional processes or criteria used in selecting suppliers for direct award of contracts.

3.4 Further work is currently underway and will be used to inform the Cabinet Office and the department as they continue to work together to draw out the lessons learned from the procurement of PPE during the pandemic. The departments plan to complete the work by the end of July so that they are then in a position to disseminate findings to the wider Government Commercial Function.

4: PAC conclusion: ***The Department's focus on supporting hospitals meant assistance to social care providers was neglected.***

4: PAC recommendation*: The Department should write to the Committee by the end of April 2021 to explain how it will revise its emergency response plans so that they include who will be supported, how and when. This must give appropriate weight to all sectors of health and social care, as well as occupations outside these sectors which are also at risk.*

4.1 The government agrees with the Committee's recommendation.

Target implementation date: April 2021

4.2 Protecting the social care sector has been a government priority throughout the pandemic. The government provided a diverse support package to the social care sector, starting with a 7 million-item push to support immediate shortages. Support was further bolstered out through dedicated wholesales, release of PPE to local resilience forums and setting up of the National Supply Disruption Response (NSDR) hotline. By April 2020, a PPE Portal was being piloted with the social care sector in mind as a key stakeholder. An Adult Social Care PPE Task and Finish Group was established in April 2020, gathering insights from the sector and have carried out surveys to understand better customer needs.

4.3 The PPE Portal started as an emergency top-up but has expanded rapidly, increasing the number of providers registered and increasing order limits. Free PPE for COVID-19 uses is now provided to social care providers and will be available until the end of March 2022. Up to April 2021, 2 billion items have been delivered through the PPE portal and 94% of care homes and 85% of domiciliary homes have registered.

4.4 Work is underway to confirm the future approach for the management of PPE, including ensuring a strong supply of PPE for both health and care sectors. More information about the future approach will be available in due course and the department will write to the Committee with an update on this by the end of April 2021.

4.5 The department is developing a framework to determine how government might best respond to a shortage of PPE for health and social care settings in addition to wider sectors. This framework has the potential to be adapted and implemented for any future needs.

5: PAC conclusion: ***The Department does not know enough about the experience of frontline staff, particularly BAME staff.***

5: PAC recommendation***: The Department needs to better understand the experience of frontline staff during the first wave of the pandemic, and ensure lessons are learned so it can better respond in a future emergency. It should particularly focus on the different reported experiences of staff from different ethnic backgrounds and consider how this should be monitored and tackled in future – not just in a pandemic. It should write to us by July 2021 setting out the results of this work and how these lessons are being applied. This work should cover:***

- ***How many health and social care providers ran out of each type of PPE during the pandemic.***
- ***Why many health and social care staff reported shortages of PPE, whereas the organisations they worked for did not appear to report shortages.***
- ***The extent to which (and reasons why) BAME staff were less likely to report having access to PPE and being tested for PPE, and more likely to report feeling pressured to work without adequate PPE.***
- ***Whether there are any links between PPE shortages and staff infections and deaths (when the relevant investigations have completed), including the deaths of health and care workers who do not work in NHS trusts.***
- ***Provider organisations' and frontline staff views on PPE guidance.***

5.1 The government agrees with the recommendation.

Target implementation date: July 2021

5.2 The government is committed to learning from the experience of frontline staff during the

pandemic and the views and experiences of frontline workers are vital in shaping the programme.

5.3 While the government's rapid action ensured there was never a point at which a trust stocked-out, the department acknowledges the evidence from front-line workers that was presented in the National Audit Office (NAO) report.

5.4 The department has factored this evidence into the programme of engagement with customer groups and users of PPE and continues to invite feedback about user needs at weekly Customer Engagement Group meetings with representatives from Adult Social Care and the NHS. Understanding of the requirements of people with protected characteristics has improved and the department is increasing the range of available options to provide solutions that address the needs of individuals.

5.5 There are mechanisms in place to investigate the deaths of health and care workers which involve coroners and the Health and Safety Executive (HSE). Medical examiners also have a role in scrutinising deaths of NHS health and social care workers of COVID-19. HSE is currently investigating COVID-19 work-related deaths, many of which have been reported by the health care sector. HSE recognises any lessons coming out of its investigations will need to be shared with employers, trade unions, professional bodies, central, local and devolved governments, as well as other key organisations.

5.6 The department is considering options for gaining further qualitative insights into the experience of frontline health and care workers in the use of PPE. The recommendations from the *Commission on Race and Ethnic Disparities Report* published on 31 March 2021 will be taken into consideration as part of this work and an update will provided to the Committee in due course.

6: PAC conclusion: ***We are concerned that the Department's ordering of an enormous amount of PPE might compromise government's ambition to maintain a UK manufacturing base for PPE.***

6: PAC recommendation***: The Department, working with other government departments where necessary, should set out a plan by July 2021 that shows how it will:***

- ***Use the PPE it has ordered, covering how much will be given health and social care providers, stockpiled, cancelled, or sold in the UK or overseas.***
- ***Incentivise the NHS Supply Chain, trusts and other providers, to buy PPE which is made in the UK.***
- ***Ensure there is sufficient resilience in the supply chain where UK manufacturers cannot provide the necessary PPE.***

6.1 The government agrees with the Committee's recommendation.

Target implementation date: end July 2021

6.2 On 28 September 2020, the government published its *PPE Strategy: Stabilise and Build Resilience,* which set out how the government was prepared for the second wave of COVID-19 alongside winter seasonal pressures.

6.3 The department will set out more details on the future strategy for PPE in due course including plans to deliver a resilient and value for money supply chain for health care with UK manufacturing at the centre. This strategy will encompass the points in recommendation 6 and more detail on the shape of this strategy will be shared with the Committee by July 2021.

7: PAC conclusion: ***The Department has wasted hundreds of millions of pounds on PPE which is of poor quality and cannot be used for the intended purpose.***

7a: PAC recommendation*: The Department should write to the Committee by July 2021 setting out how much of the PPE it ordered it has received and checked, and the volumes and costs of the PPE that (a) cannot be used at all; (b) cannot be used for its intended purpose; and (c) its methodology for determining the volumes and costs of PPE which it considers to be in each of these categories.*

7.1 The government agrees with the Committee's recommendation.

Target implementation date: July 2021

7.2 Processes are underway to review the quality of all the PPE the government has bought, which is on course to complete by the end of June 2021.

7.3 This process will determine whether or not products are suitable to be released to the frontline. Any products that are not currently used on the frontline will be subject to further quality investigation and contractual review. The department will write to the Committee by the end of July 2021 to report on the findings from this analysis. In January 2021, the department reported to the Committee that 1.3% of total PPE bought could not be used for its original intended purpose. This was generated as a best estimate at the time. The department is now reviewing with support of external audit to assess the current 11% of ordered volume that is not currently being supplied to the frontline. After this work is complete, it will be able to give a final accurate per cent of volume that cannot be used for its original intended purpose. A total of 0.31% of delivered volume are marked as wastage.

7.4 This review will enable an assessment of the costs of the PPE in each of these categories to be made. An assessment of the value of the stock will be made, using the weighted average cost model, and the department will provide the Committee with a detailed breakdown in July 2021.

7b: PAC recommendation*: The department should also update us on the number of contracts (and their financial value) in which it is seeking to recover costs for undelivered or substandard PPE.*

7.5 The government agrees with the Committee's recommendation.

Target implementation date: July 2021

7.6 Alongside the efforts to fully reconcile the total spend and receipt of high-quality PPE (set out in response to recommendation 7a), work is underway to identify contracts where, due to supplier delivery or product quality failure, the department is seeking to recover the costs of undelivered or substandard PPE.

7.7 This is an ongoing reconciliation process. These matters are being investigated and passed through a governance forum, the Commercial Assurance and Approvals Board (CAAB). This Board has been established to support the decision-making process to progress all matters to completion.

7.8 The department plans to write to the Committee by the end of July to report:

- the number and value of contracts where it has been successful in recovering the costs of undelivered or substandard PPE;
- the number and value of contracts where efforts have been made to recover the costs of undelivered or substandard PPE, and the delta of any settlement vs the original contracted agreement can be reported (i.e. a write down/off against the contracted value); and
- the number and value of contracts that it is still seeking to recover costs for undelivered or substandard PPE.