From the Permanent Secretary
Sir Chris Wormald

Department of Health & Social Care

Jeremy Hunt MP
Chair of the Health Select Committee
House of Commons
London
SW1A 0AA

Sent via email to:

17 March 2022

Dear Chair

Thank you for your letter of 3 February. As you will know we discussed the Department's Annual Report and Account (ARA) at length with the Public Accounts Committee on 7 March 2022; the transcript of the hearing is now available on the Committee's website. Please see below for answers to your specific questions in your letter.

The Department has reported that £2.6 billion (over 20%) of the PPE it purchased during the Covid-19 pandemic was 'not suitable for use in the health and social care sector'. Why then were these items purchased? Can you set out what makes these items unsuitable for use in the health and social care sector?

Our priority throughout the pandemic has been saving lives. The scale of the challenge we faced in sourcing these goods cannot be underestimated. In the highly competitive global market, there were significant logistical challenges in sourcing, procuring, and distributing goods. The rapid rise in international infection rates during the early stages of the pandemic created unparalleled demand.

The disruption to the market, coupled with the unprecedented spike in demand, resulted in a huge inflation in price for goods and intense global competition to secure scarce supplies. For example, the average cost of a nitrile glove increased over six-fold at the height of the pandemic compared to pre-pandemic levels. Due to the uncertainty of the market, our planning also had to take into account the likely non-performance of contracts and weigh that risk against the scarcity of product. Our modelled assumptions (20% failure rate) for unfulfilled contracts did not materialise, which meant our buying activities were more successful than we predicted and we are now in a position where we have high confidence that we have sufficient stock to cover all future COVID-19 related demands.

The Department has processes in place to review the quality of all PPE the Government has purchased and these processes determine whether products are suitable to be released to the frontline. Upon receipt, a sample of each product is reviewed by DHSC's Technical and Regulatory Assurance team. The same process is undertaken with technical certificates.

From the Permanent Secretary
Sir Chris Wormald

Department of Health & Social Care

Stock that has not passed the initial quality assurance and has been identified as not being for use in medical settings is classified as 'Do Not Supply' (DNS) across different categories[1]:

- Not fit for any use – the product has failed the technical, clinical or regulatory compliance assessment and we feel there is no alternative use for the product;
- Potential use in other settings – the product has failed technical or clinical assessment, but there is potential for it to be used in settings other than health and social care and for sales/donations;
- Donated stock or stockpile from the Pandemic Influenza Preparedness Programme (PIPP), and not currently suitable to supply;
- Cleared by the Materials Surveillance Authority regulator but not suitable for use in clinical settings – the regulator has approved from the technical assurance perspective, but the product has then failed its clinical usability assessment. For example, face visors that met the Department's specification, but ultimately required assembly which was considered too time consuming. These items may be suitable for use in other parts of the public sector.

This quality assurance process has been underway since the very early stages of the pandemic and is ongoing. By 2 April 2021, 2,155 different product lines had been through this process. This represented 83% of the products that had been purchased by the end of the 2020-21 financial year.

The Department has sought to minimise the products within the DNS category by working extensively with contracting entities to secure the missing technical documentation that supports the original intended use of PPE units. For example, 200 million TIIR masks and 700 million nitrile gloves that were held within DNS and unable to be released, have moved into circulation, after the Department obtained the necessary technical documentation from the manufacturer.

Similarly, the purchase of £673 million of PPE has been recognised as a financial loss in 2020-21 as it has been assessed as 'not being suitable for any use', for instance because it is defective. Were all these items defective, or are there other reasons why they were deemed unsuitable? At what point after purchase were they deemed unusable?

These items (totalling 3% of the total PPE purchased by units and 5% by value) fit into the first category described above - there is no alternative use for the product, so they have been assessed as 'not fit for any use'. Examples include gowns that had no documentation to

[1] Note that these categories are relevant for the Annual Report and Accounts impairment. The Public Accounts Committee receive an update that provides a breakdown with two further categories. Those categories are amalgamate into these four as they're not substantially different from one another for accounting purposes.

Department of Health & Social Care

verify whether they passed liquid penetration tests and face masks that the Department identified as counterfeit, with no assurance of whether they contained latex or not.

These were assessed at different times across financial year 2020-21 following delivery to DHSC facilities, however most deliveries were received by November 2020. The Department is pursuing all available means to recover sums under contract where PPE has been delivered but does not meet contracted specification.

Could the Department recover any of these losses from the companies which sold the PPE, especially in cases where the items were defective or not suitable for intended use?

The investigations into contracts where we have some degree of dissatisfaction due to our high standards of quality control, or due to clear contractual breach, relate to 176 contracts. These contracts have a total value at risk of £2.7bn. Some of these contracts have relatively simple issues - for example no certificates for the PPE. In other cases our contracted specification has not been met, so we are engaged in mediation to recover amounts and have the PPE collected by the supplier.

The Department is pursuing all opportunities available to it to recover the value at risk for these contracts through a hierarchy starting with commercial discussions then mediation and settlement if necessary. In some cases litigation is expected to be required.

The Department has also reported that the £2.6 billion of PPE noted above could be suitable for other purposes and may be resold, so the financial loss of £2.6 billion has not been reported in the 2020-21 Annual Report and Accounts. What other purposes could it be used for? How much of the £2.6 billion does the Department expect to recover from resale?

It is important to note that the figures provided in the ARA cover both impairments and losses incurred during the 2020-21 financial year. The £2.6 billion figure is part of the wider impairment of PPE as is confirmed on page 181 of the ARA. As action to avoid incurring this loss remains ongoing this was not sufficiently crystallised to be reported as a loss in the 2020-21 ARA. The figure is nevertheless the Department's best estimate of the likely loss which may crystallise and become reportable in future accounting periods, which is confirmed by the Department on page 182 of the ARA. Work is underway to manage the stockpile effectively, and in doing so maximise its value.

The Department has established a redistribution team to identify alternative uses and resale potential for inventory we do not intend or expect to use. There are a range of ways that products have been repurposed. For example, self-construct visors which take 4-6 minutes to build were not appropriate for use in clinical settings with high usage. However, the items were of high quality and have been used in smaller volume situations, such as by dentists.

Department of Health & Social Care

To date, the Department has sold 326 million units of masks; a further 520 million had been earmarked for sale, but not yet sold. The demand for masks is now waning as countries move towards a 'living with covid strategy', and other countries with surplus stock enter the market place for re-sale. It is therefore unlikely that the Department will make further significant sales of PPE. The sales made have nevertheless contributed to a reduction in our forecast cost of storage, by £1.5m per year, and the cost of disposal of these products has been avoided.

The Department has re-directed some PPE that was initially intended for use in the NHS, such as flat packed aprons, into social care settings. The Department has also provided face masks to charities, the Department for Transport, and the Department for Education. Donations to other countries have also been part of the Department redistribution efforts. So far, the Department is in the process of discussing donations with nearly 25% of the world's countries.

£750 million of PPE is reported to have an expiry date prior to the expected usage date. Can this amount be recovered through resale to entities who will use the items before their expiry date?

The Department is managing the stockpile effectively through efforts to repurpose items before they reach their expiry and exploring options for resale as has been detailed in the paragraphs preceding this one.

Stock which has exceeded its manufacturers' use-by date, is not necessarily unusable. The Department has begun a tender for a third-party medical laboratory to provide official testing of PPE products with a view to extending shelf life to maximise the usefulness and therefore value for money from the PPE purchased without compromising the quality of goods. Following these extensions we will be able to use the stock for its intended purpose in health and social care settings.

What is the Department's current financial estimate for the level of fraud in its Covid-19 procurement activities? How much of this does the Department currently expect to recover?

The government's COVID-19 stimulus and financial support packages are recognised as being at an increased risk of fraud, from those who would seek to take advantage in these circumstances.

In response to this, the Department is taking action to both understand the extent of loss and to find and recover, where it was practicable, through Post Event Assurance (PEA) activity. In line with this cross-government approach, DHSC is undertaking PEA activity across high-risk areas of COVID-19 spend, including PPE and ventilator procurement.

As stated in the DHSC ARA 2020-21, the Department recovered/prevented c£162 million in high-risk procurement payments, through additional examination and checks on contracts identified as heightened risk and contract management to prevent loss and where

Department of Health & Social Care

appropriate seek recovery. Of this, £157m (£139m prevented which includes preventing some opportunities reaching contract stage and £18m recovered) related to PPE.

PEA for PPE is ongoing and DHSC is participating in the Government Counter Fraud Function Fraud Measurement and Assurance (FMA) exercise for PPE Procurement, which will provide an independent assessment against the Fraud Measurement Standards, of the risk based approach and methodology the Department has taken.

The Department's working assumption is potential loss from fraud and error across the PPE programme is within the Government Counter Fraud Function range of 0.5 -5% based on fraud loss measurement exercises and research into measurement exercises and approaches. Work on fraud measurement for the scheme is well advanced and forms part of the Counter Fraud Function Fraud Measurement and Assurance (FMA) programme. It expects to report more refined estimates by early Summer when this work and assurance by the FMA programme is concluded. It is acknowledged across government that there will be a lead time for frauds around COVID-19 to be identified, including in PPE procurement which, unlike other support schemes, is subject to ongoing contract management controls; active dispute resolution and recovery action. While there has been little fraud identified to date, the DHSC Anti-Fraud Unit is actively engaged to monitor and assess the evolving picture.

We have also tested a sample of Ventilator contracts to identify potential fraud. The programme reports full delivery. Seven contracts (12% of the orderbook) were tested, with no evidence of fraud discovered. The only potential fraud identified within the programme was detected in the early stages, when changes in supply chain companies post contract raised concerns. The contract was terminated with full recovery of initial payments.

DHSC takes fraud seriously and explores every available option, including working with law enforcement partners, where appropriate. The Department will continue to bring those who commit fraud to account and seek to recover fraud losses, where they occur, to ensure public funds essential to delivering effective patient care, are directed to where they are needed most.

The Comptroller and Auditor General has reported that the lack of a single integrated inventory management system prevents the Department being able to assess the extent of potential fraud. Will the Department integrate its inventory system so it can more accurately assess the fraud risk? Has the Department taken steps to do this?

Whilst the lack of a single integrated inventory management system has in part led the Comptroller and Auditor General (C&AG) to limit the scope of his audit opinion over the regularity of expenditure in respect of the risk of fraud losses in the 2020-21 ARA, it does not prevent the Department obtaining a high degree of assurance that the possibility of significant levels of fraud existing in respect of PPE inventory purchasing is remote. It also does not suggest that the Departmental Group accounts are materially misstated as a result of fraud, indeed there is significant evidence to the contrary.

The Department was cognisant of the heightened risk of purchasing PPE from new suppliers and implemented heightened controls in response. These included additional pre-payment

From the Permanent Secretary
Sir Chris Wormald

Department of Health & Social Care

banking checks and heightened purchase to pay controls to ensure suppliers were only paid when product arrived in line with contractual requirements, with most payments being dependent upon confirmed proof of receipt.

As more than a year has passed since the majority of the PPE arrived, the Department has also had the opportunity to conduct extensive checks to ensure it has not been the victim of fraud. These include reconciling overall purchasing records to inventory in the storage network to a high degree of accuracy, demonstrating that virtually all the inventory the Department ordered has arrived, and with contract management activity and/or legal action ongoing where this is not the case. The Department has also quality checked virtually all the PPE inventory that arrived in 2020-21, including that stored in sealed containers, and whilst quality issues have been identified, these have been assessed and with minimal exception, are not considered indicative of fraud. The vast majority of the inventory held in sealed containers has been physically observed at some point, with the content of those containers invariably confirmed as in line with expectations from both a quantity and nature of product perspective. Robust physical security controls were also in operation throughout the transportation and storage processes to safeguard against theft.

In combination these factors give the Department a high degree of assurance that the possibility of significant levels of fraud existing in respect of PPE inventory purchasing is remote, without needing to implement an integrated inventory management system. The Department's other COVID purchasing, for example that associated with NHS Test and Trace procurement process, is considered to carry a fraud risk akin to that associated with standard procurement processes as products were generally purchased in areas with which the Department was familiar and/or from suppliers with considerable experience of supplying the goods and services purchased. The impact of COVID-19 on fraud levels across the Departmental Group has also been assessed. As such steps will not be taken to further integrate inventory management as fraud risks are already appropriately assessed.

The Comptroller and Auditor General also reported that the Department spent £1.3 billion without the necessary HM Treasury approvals or in express breach of conditions set by HM Treasury. Could you set out how this money was spent?

With reference to the £1.3 billion spend deemed irregular, further detail can be found in the Department's 2020-21 ARA from paragraph 648. This section of the Governance Statement sets out the various activities, level of spend per activity and the circumstances by which the spend was deemed irregular. For convenience, paragraph 648 and associated bullets confirm that irregular spend was incurred in relation to community pharmacy payments, dental charges, PPE and freight and logistics spend, NHS Test and trace consultancy spend and a capital overspend in the NHS.

These issues arose in the context of Department's emergency response to COVID-19, where the priority was to ensure that critical services were sufficiently resourced. The pace and volume of this activity meant that, in these cases, while information was often shared with HM Treasury, it was only after the spend had been incurred that it was concluded that formal

From the Permanent Secretary
Sir Chris Wormald

Department of Health & Social Care

approval should have been sought. Approvals processes and guidance have since been fully revised to prevent a recurrence of these issues in future.

The total balance of consumables inventory held by the Department on 31 March 2021 of £3.6 billion could not be evidenced to the NAO because the Department did not maintain adequate records of the location or condition of these items. Does the Department now maintain adequate records for all its inventory?

The Department has detailed records of the location of all PPE which it controls. We counted all inventory at 31 March 2021 where it was possible to do so. The Department investigated options to count inventory in containers at 31 March 2021 and concluded this was not possible due to the cost, the time that would have been required and the consequential impact on the continued delivery of PPE supplies to the frontline.

The qualification of the 2020-21 ARA in respect of inventory was as a result the Department's inability to physically count, in the time available, every item of COVID inventory at financial year-end. Stock unable to be physically counted included stock in transit and stock held in stacked sealed containers due to accessibility issues.

It is important to note that this accounts qualification conveys a limitation to the scope of audit work that is possible. It does not suggest the Departmental Group accounts are materially misstated just because we were unable to conduct stock takes in all locations.

Yours sincerely,

Chris Wormald

SIR CHRIS WORMALD
PERMANENT SECRETARY

Health and Social Care Committee
House of Commons London SW1A 0AA
Tel: 020 7219 6182 Fax 020 7219 5171 Email:
hsccom@parliament.uk Website: www.parliament.uk/hsccom
Twitter: @CommonsHealth

From Rt Hon Jeremy Hunt MP

Sir Chris Wormald
Permanent Secretary
Department of Health and Social Care

03 February 2022

Dear Sir Chris

I have a number of questions about the Department's Annual Reports and Accounts that I would be very grateful if the Department could answer.

The Department has reported that £2.6 billion (over 20%) of the PPE it purchased during the Covid-19 pandemic was 'not suitable for use in the health and social care sector'. Why then were these items purchased? Can you set out what makes these items unsuitable for use in the health and social care sector?

Similarly, the purchase of £673 million of PPE has been recognised as a financial loss in 2020-21 as it has been assessed as 'not being suitable for any use', for instance because it is defective. Were all these items defective, or are there other reasons why they were deemed unsuitable? At what point after purchase were they deemed unusable?

Could the Department recover any of these losses from the companies which sold the PPE, especially in cases where the items were defective or not suitable for intended use?

The Department has also reported that the £2.6 billion of PPE noted above could be suitable for other purposes and may be resold, so the financial loss of £2.6 billion has not been reported in the 2020-21 Annual Report and Accounts. What other purposes could it be used for? How much of the £2.6 billion does the Department expect to recover from resale?

£750 million of PPE is reported to have an expiry date prior to the expected usage date. Can this amount be recovered through resale to entities who will use the items before their expiry date?

What is the Department's current financial estimate for the level of fraud in its Covid-19 procurement activities? How much of this does the Department currently expect to recover?

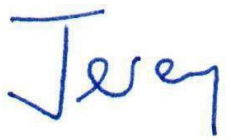
The Comptroller and Auditor General has reported that the lack of a single integrated inventory management system prevents the Department being able to assess the extent of potential fraud. Will the Department integrate its inventory system so it can more accurately assess the fraud risk? Has the Department taken steps to do this?

The Comptroller and Auditor General also reported that the Department spent £1.3 billion without the necessary HM Treasury approvals or in express breach of conditions set by HM Treasury. Could you set out how this money was spent?

The total balance of consumables inventory held by the Department on 31 March 2021 of £3.6 billion could not be evidenced to the NAO because the Department did not maintain adequate records of the location or condition of these items. Does the Department now maintain adequate records for all its inventory?

I have copied this letter to the Chair of the Public Accounts Committee.

Yours sincerely



Rt Hon Jeremy Hunt MP
Chair, Health and Social Care Committee