

Written evidence submitted by Transparency International (TI)

1. INTRODUCTION

- 1.1. Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.
- 1.2. Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at local, national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK. We are independent, non-political, and base our advocacy on robust research.
- 1.3. TI-UK welcomes the Public Accounts Committee's inquiry into tackling fraud and corruption against government. With this submission we aim to provide the Committee with relevant research we have conducted into public procurement during the COVID-19 pandemic, to set out where reforms are needed to address these issues, and to provide the Committee with suggested questions it may wish to pose to senior officials and ministers.
- 1.4. TI-UK would welcome the opportunity to provide oral evidence or further written briefings to this enquiry upon request. We will also be conducting further data analysis on procurement risks during the pandemic and look forward to sharing our findings in due course.

2. SUMMARY

- 2.1. In 2021 Transparency International UK published a detailed analysis¹ of publicly available evidence showing that the UK's procurement response to the COVID-19 pandemic was beset by opaque and uncompetitive contracting, a suspiciously high number of awards to those with political connections, and a system for triaging offers of personal protective equipment (PPE) supplies which appears to have been partisan and riven with systemic bias.
- 2.2. Scrutiny of these emergency procurement processes and how they were used was further hindered by contracts being published after the legal deadline. It is notable, and concerning, that contracts awarded to those with political connections to the party of government in Westminster were more likely to be published late than those without this link.²

¹ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>

- 2.3. A number of high-profile media stories involving PPE contracts being awarded to firms apparently due to personal relationships and political connections have also fueled perceptions of corruption and wrongdoing. There are serious questions to answer about why those with political contacts and seemingly no relevant experience were awarded substantial public funds - large amounts of which seem to have been wasted because the contractor failed to deliver goods of the required quality.
- 2.4. In the two years following publication of our report, ministers have repeatedly brushed aside questions from MPs over this so-called 'VIP lane'.³ Government resistance in the Commons and in court to disclosing how billions of pounds of public money were spent in this way gives the overwhelming impression that there is something to hide.
- 2.5. Against a backdrop of rising perceptions of public sector corruption in the UK,⁴ Transparency International UK is calling on the government to future-proof its procurement processes and prevent fraud and corruption against government by:
- 2.5.□1. Defining the conditions and processes for introduction of emergency procurement procedures so potential future use is predictable, transparent and subject to robust parliamentary oversight.
 - 2.5.□2. Improving transparency over the use of public money by increasing publicly available data on contracts and notifying Parliament of breaches of transparency obligations.
 - 2.5.□3. Improving enforcement of existing rules and clarifying in law activities that merit criminal sanction.

3. BACKGROUND AND RECOMMENDATIONS IN DETAIL

Addressing corruption risks in procurement

- 3.1. The risks associated with uncompetitive contracting through direct awards are high. Without the rigour of market engagement, public bodies risk securing sub-standard or unduly expensive products or services (or both). Moreover, when this is combined with contextual factors such as political connections or apparent lack of market experience, it can also damage confidence in the integrity of public administration.
- 3.2. Whilst the absence of competition is deemed to be permissible in exceptional emergency circumstances, this was widespread throughout the COVID-19 pandemic and combined with a questionable – and at times unlawful⁵ – system for triaging offers of PPE by suppliers.

² <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 28

³ <https://hansard.parliament.uk/Commons/2022-12-06/debates/CC966116-A7FF-4470-81EF-203E0C520A0E/GovernmentPPEContracts?highlight=vip%20lane#contribution-0E67FEC6-AA57-4076-9837-CB79B725D5C7>; <https://hansard.parliament.uk/Commons/2022-12-08/debates/AA8EF52D-EC40-4ABD-A244-1667CE543133/TopicalQuestions?highlight=vip%20lane#contribution-C7AB026C-3195-48A8-8742-EA72851CE212>

⁴ <https://www.transparency.org.uk/uk-corruption-perceptions-index-2022-score-CPI>

⁵ <https://www.theguardian.com/politics/2022/jan/12/use-of-vip-lane-to-award-covid-ppe-contracts-unlawful-high-court-rules>

- 3.3. Our 2021 report uncovered at least 73 contracts relating to the COVID-19 response, worth over £3.7 billion, that warrant further investigation to determine the role personal and political relationships played in the selection process. With 24 PPE contracts worth £1.6 billion going to known political connections to the party of government in Westminster, these questions are particularly relevant in regards to the 'VIP lane' used during the pandemic for referring PPE suppliers.⁶ An additional six politically connected companies secured contracts for other services. The Annex below provides a summary of these contracts. Since our report, the Good Law Project has identified even more businesses passing through the UK government's fast-track route for contractors.⁷
- 3.4. To compound this, the publication of information regarding procurement contracts needed to enable scrutiny over the use of taxpayers' money were woefully inadequate. Whilst clerical errors and slow publication of information may have derived from understandable resource challenges, the inability to properly audit public procurement contracts further raise questions on the integrity of the process.
- 3.5. **To mitigate corruption risks in case of future crises, the UK government should define the conditions and processes for emergency procurement procedures by:**
- 3.5.□1. **Legislating for the conditions needed to allow the use of emergency procedures and ensuring these are subject to robust parliamentary oversight. A 'sunset clause' of 90 days should be built into emergency procurement powers used by government to prevent their abuse, with a statutory review of their use within 12 months of them ending.**
- 3.5.□2. **Incorporating corruption risk assessments into public bodies' crisis procurement responses that include mitigation strategies due to the heightened risk created by the rapid allocation of resources and reduced oversight during emergencies.**

Ensuring transparency over the use of public money

- 3.6. Transparency is a cornerstone of public procurement in the UK. It provides a critical safeguard against corruption, helps ensure the integrity of the process, and enables accountability over the use of taxpayers' money. In theory, these principles are enshrined in laws, regulations and processes that enable the public to follow the money through each stage of the process from planning through to payments. In practice, however, we have found that the UK's procurement transparency infrastructure is highly deficient and inhibits the utility of transparency disclosures for identifying potential wrongdoing.
- 3.7. Anyone attempting to review public spending during the COVID-19 pandemic faces numerous systemic challenges. These are issues inherent in the current design of the UK's procurement transparency regime, which inhibit access to key information about contract delivery and performance.
- 3.8. Central to the difficulties in auditing the performance of public suppliers is the timeliness of public disclosures of awarded contracts. From our review of available data, there were significant delays across the UK concerning the publication of contract award

⁶ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 20

⁷ <https://goodlawproject.org/revealed-then-there-were-50/>

notices. For instance, between February and the end of November 2020, we found that 711 identifiable COVID-19 related contract awards worth £13.3 billion had only been reported after the 30 day legal deadline. Of this, £7.4 billion was reported more than 100 days after the contract award.⁸

3.9. Worryingly, our research also found that details for ninety-three per cent (28) of the 30 contracts awarded to politically-connected companies were published late, compared to 70 per cent (688) of the 970 without known political connections.⁹ Not only does this invite challenge and costly litigation, but it also undermines trust in the management of public money and the authority of ministers.

3.10. A lesser but nonetheless frustrating error is some public bodies' inability to report their name consistently. Were this an occasional variation in a relatively small dataset then this would not matter as much. Examples within our sample data include at least seven different names for the Department of Health and Social Care, and over 100 different entries for the Ministry of Defence – both of which cover thousands of procurement notices.¹⁰

3.11. The same applies to fields involving monetary and data values. We have noticed a number of mistakes made including a reported £27.6 billion contract award which was actually £27.6 million; two £19 million contract awards when only one was awarded; and some contracts awarded in 2027 and 2028.¹¹ Inconsistencies like this require anyone analysing the data to undertake time-consuming data cleansing, yet with some simple controls on data entry this problem could be solved.

3.12. **To improve transparency over the use of public money:**

3.12.□1. Relevant authorities should audit all 73 suspicious contracts awarded during the pandemic, clarifying the current status of the 'VIP lane', and providing transparency over the contract referral system during COVID, including who knew of it and when, who passed through the lane, and by whom they were referred.

3.12.□2. The UK government should make a statement to Parliament on breaches of transparency obligations during COVID-19, and on steps being taken to rectify and prevent these in the future.

3.12.□3. The UK government should implement measures to improve the quality and consistency of contracting data in the implementation of upcoming public procurement reforms.

Safeguarding against the abuse of public office for private gain

3.13. With government ministers having unique access to critical and sensitive information about public procurement requirements, ensuring integrity in public office is essential to maintaining trust in the government's ability to spend taxpayer funds in line

⁸ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 27

⁹ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 28

¹⁰ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 30

¹¹ <https://www.transparency.org.uk/track-and-trace-uk-PPE-procurement-corruption-risk-VIP-lane-research>, p. 30

with the public interest. Two years after we published our report setting out the corruption risks associated with the VIP lane, it is still not clear how some firms were aware of its existence while others were not. Questions remain about how this information was shared and utilised by those in government.

3.14. Currently, neither code nor common law provide a robust deterrent against misconduct in government, with enforcement of the former riven with conflicted interests, and the latter poorly defined and difficult to prosecute in practice. Whilst these issues are well understood,¹² they are yet to be resolved.

3.15. In theory, any breach of the Ministerial Code is subject to investigation by the Independent Advisor on Ministers' Interests, who reports to the Prime Minister. In the absence of any potential criminal conduct it would be for the PM to decide on any sanction, which is confined principally to firing or demoting them. Not only does this arrangement provide a relatively limited means of redress, it also presents a significant conflict of interest, with the PM responsible for disciplining colleagues on whom they may depend.

3.16. While there are some legislative safeguards against misconduct in public office, these have proved to be an insufficient deterrent.

3.17. **To mitigate the potential for abuse of public office for provide gain, the government should improve the Ministerial Code of Conduct and clarify in law what activity merits criminal sanction by:**

3.17.□1. Legislating for the Ministerial Code of Conduct to be overseen and enforced by an office independent of government, with sufficient powers and resources.

3.17.□2. Introducing a new statutory offence of corruption in public office for egregious misconduct that requires a more serious deterrent.

4. SUGGESTED QUESTIONS FOR GOVERNMENT

4.1. Who within Parliament and HM Government knew about the VIP lane, when did they know, and why were they aware while others were not? Why has there been reluctance to release information in relation to the VIP lane to date?

4.2. Will the government provide all correspondence with those companies who passed through the VIP lane, and all correspondence with their referees, to the COVID-19 inquiry?

4.3. Are there currently plans for an independent audit of contracts awarded during the pandemic?

¹² <https://www.transparency.org.uk/publications/restoring-integrity-public-life>; <https://www.transparency.org.uk/revolving-door-public-private-westminster-corruption-risk>

4.4. What steps were taken to reassess the 46 VIP lane contracts awarded prior to the introduction of an eight-stage due diligence process on 4 May 2020?

4.5. What lessons has the government learned from how it procured PPE equipment during the COVID-19 pandemic, noting concerns about cronyism in relation to the VIP lane and the more than £4bn¹³ of unusable PPE procured in the first year of the pandemic alone?

ANNEX: CONTRACTS AWARDED TO POLITICALLY CONNECTED COMPANIES

Contract ID (TED)	Supplier name	Buyer name	Date incorporated	Supplier company number	Amount	COVID category	Contract awarded	Contract published	Days to publication
209472-2020	Radox Laboratories Limited	DHSC	20/04/1982	NI015738	133,000,000	Testing	30/03/2020	01/05/2020	32
525879-2020	Radox Laboratories Limited	DHSC	20/04/1982	NI015738	346,500,000	Testing	02/10/2020	29/10/2020	27
270699-2020	Dragon Town Limited	Guys and St Thomas NHS Foundation Trust	08/07/1996	03221762	675,000	PPE	03/05/2020	08/06/2020	36
428591-2020	Meller Designs Limited	DHSC	21/12/1951	00502663	79,170,000	PPE	29/06/2020	07/09/2020	70
348174-2020	Meller Designs Limited	DHSC	21/12/1951	00502663	65,832,000	PPE	08/05/2020	21/07/2020	74
500542-2020	Meller Designs Limited	DHSC	21/12/1951	00502663	10,920,000	PPE	26/04/2020	16/10/2020	173

¹³ <https://committees.parliament.uk/committee/127/public-accounts-committee/news/171306/4-billion-of-unusable-ppe-bought-in-first-year-of-pandemic-will-be-burnt-to-generate-power/>

500541-2020	Meller Designs Limited	DHS C	21/12/1951	00502663	7,620,000	PPE	14/06/2020	16/10/2020	124
428580-2020	Meller Designs Limited	DHS C	21/12/1951	00502663	2,610,000	PPE	13/06/2020	07/09/2020	86
307299-2020	Meller Designs Limited	DHS C	21/12/1951	00502663	1,080,000	PPE	05/05/2020	29/06/2020	55
467850-2020	P14 Medical Limited	DHS C	11/08/2017	10911187	156,291,000	PPE	25/05/2020	30/09/2020	128
293540-2020	P14 Medical Limited	DHS C	11/08/2017	10911187	116,013,156	PPE	25/04/2020	19/06/2020	55
287905-2020	P14 Medical Limited	DHS C	11/08/2017	10911187	4,192,812	PPE	19/04/2020	17/06/2020	59
573975-2020	Uniserve Limited	DHS C	21/06/1984	01826635	473,390,310	PPE	30/03/2020	24/11/2020	239
428567-2020	Uniserve Limited	DHS C	21/06/1984	01826635	103,040,000	PPE	05/06/2020	07/09/2020	94
287892-2020	Uniserve Limited	DHS C	21/06/1984	01826635	86,200,000	PPE	22/04/2020	17/06/2020	56
298069-2020	Uniserve Limited	DHS C	21/06/1984	01826635	69,600,000	PPE	14/04/2020	23/06/2020	70
560518-2020	Uniserve Limited	DHS C	21/06/1984	01826635	14,400,000	PPE	18/05/2020	17/11/2020	183
293564-2020	Uniserve Limited	DHS C	21/06/1984	01826635	13,500,000	PPE	23/04/2020	19/06/2020	57
293570-2020	Uniserve Limited	DHS C	21/06/1984	01826635	10,000,000	PPE	14/04/2020	19/06/2020	66
307304-2020	Uniserve Limited	DHS C	21/06/1984	01826635	7,125,000	PPE	14/04/2020	29/06/2020	76
428586-2020	Ppe Medpro Limited	DHS C	12/05/2020	12597000	122,000,000	PPE	26/06/2020	07/09/2020	73
494877-2020	Ppe Medpro	DHS C	12/05/2020	12597000	80,850,000	PPE	30/05/2020	14/10/2020	137

	Limited								
494870-2020	Sumner Group Health Limited	DHS C	08/09/2015	09767522	26,125,000	PPE	28/05/2020	14/10/2020	139
293541-2020	Sumner Group Health Limited	DHS C	08/09/2015	09767522	23,899,000	PPE	26/04/2020	19/06/2020	54
568397-2020	Sumner Group Health Limited	DHS C	08/09/2015	09767522	29,600,000	PPE	26/04/2020	20/11/2020	208
386815-2020	Globus (Shetland) Uk	DHS C	18/02/1994	SC149147	93,709,500	PPE	28/07/2020	12/08/2020	15
478734-2020	Serco Limited	DHS C	10/09/1929	00242246	57,000,000	Testing	17/07/2020	06/10/2020	81
603152-2020	Topham Guerin Limited	Cabin et office	29/07/2019	12127468	3,000,000	Other	17/03/2020	09/12/2020	267
460153-2020	Elorehai Limited	DHS C	22/01/2020	12418977	280,000	Other	22/03/2020	25/09/2020	187
603203-2020	Public First Limited	Cabin et Office	27/04/2016	10149826	840,000	Other	03/03/2020	09/12/2020	281

MAY 2023