

Minister Lopez closing remarks on Westminster Hall debate on procurement

Thank you, Miss Eagle, it is a pleasure to serve under your chairmanship this morning. I should like to thank the Hon Member for Liverpool Walton for tabling this incredibly important debate, and other Hon Members for their contributions.

I am also grateful to the NAO for their report. The care with which we spend taxpayers' money matters very deeply to public confidence in government, and I do not wish this morning to present a carefully constructed political argument that seeks to dismiss the concerns that have been raised.

I want instead to be candid about the challenges the government had to navigate at the height of the pandemic, provide some context to the NAO report, and set out what went well and what undoubtedly could have been done better in the period they focus on between January and July.

I was on maternity leave at the height of the pandemic and only began my ministerial role at the Cabinet Office in June. As I took on that role, I confess to sharing some of the concerns that were raised with me in the House about the cost and circumstances of particular procurements, and wanted to assure myself of what happened – to understand the full story. Today, I hope to share that story with you, and to be as transparent as possible.

As I do so, I would ask Hon Members to keep three broad points in mind:

- First, it is important to recognise the sheer volume of procurement activity in response to this national health emergency. By 31 July, over 8,600 contracts worth £18 billion had successfully been awarded, some 90% by the Department of Health in value terms. That's compared to 174 contracts worth £1.1bn awarded by the Department of Health last year. In other words, this was a colossal upscaling of effort to take this country through the crisis. Of these, the NAO's report examined just 20, naturally focusing on those that have attracted most public interest.
- Second, due to time pressures I shall focus my comments on the areas looked into by the NAO report.
- Finally, while it has become a political cliché to say we 'must learn the lessons' from particular events, in this case it is especially important that we learn the right lessons. It might make for a snappy headline or an eye-catching political campaign to suggest that the story of procurement during the crisis has been one of Tory corruption, but it behoves us all to understand what really happened so that we do not overlook what needs to change.

Market Context

At the height of the crisis in April – as the NAO describes in its report – health services around the world faced an unprecedented situation where demand for personal protective equipment (PPE) and other medical products far exceeded supply.

Faced with these exceptional levels of global demand, the usual vendors in China who serviced the NHS's central procurement function very quickly ran out of supply and the world descended on a few factories in that country to bid for available items.

In this market context, the government needed to procure with extreme urgency, often through direct award of contracts, or risk missing out on vital supplies. It is here that I would like to address the first of several criticisms – that the Government 'ripped up' procurement rules.

This is simply not true.

Regulation 32 2.c of the Public Contracts Regulations, which predates the pandemic, explicitly allows for emergency procedures including direct award. No rules were suspended, relaxed or changed – this was just a case of using existing, legally compliant regulations for the purpose they were intended. Similar approaches were taken by many other countries, including Japan, New Zealand and Finland. In a situation of genuine crisis and extreme urgency, where offers had to be accepted or rejected in a matter of hours or days, it was simply not viable to run the usual procurement timescales, even by taking advantage of accelerated processes (which still require a minimum of 25 days).

Nor is it the case that the Government cast value for money considerations aside. All offers went through the same eight-stage assessment process, and where full competitions for PPE were not possible because of time pressure, prices were examined against a rolling benchmark of prices paid to protect the taxpayer from mispricing.

This is not to say prices weren't higher across the board. In this massively overheated spot market, product was often going for over 5 times the normal price, made worse by the appearance of opportunistic middle men who started to put deposits down for product before reselling it for a high handling fee.

Of course the government would not normally pay these kinds of fees, but procurement teams were left with the choice either to buy the product – as was rightly, and vociferously, demanded – or not get hold of it for the NHS.

This situation was further complicated by what was going on internally – and this is what I mean by wanting to learn the right lessons, particularly about challenges within our systems. 450 people from across government were moved into DHSC to become a stand-up virtual team to urgently assist with securing PPE – a team normally only 21 people strong. In many ways this was an impressive feat...but it also meant a lot of people who did not know each other, working remotely on a range of different IT systems, with suppliers

they did not know, on product they were not familiar with, in the most highly pressured market of their careers. As I say, this was not an easy operating context.

As concern grew about the level of PPE that might be required to deal with the challenge of covid, the Prime Minister put out a call to action. With great commitment and energy, the British public and business community responded. This meant that in very short order, commercial teams were dealing with over 15 000 offers of help. Leads were coming in faster than they could be processed, and when they were rejected or if they were delayed, people started chasing through their MPs.

High priority Lane

In order to manage this influx of offers, a separate mailbox was set up to handle this area of work.

This is the oft-cited 'high priority lane', which colleagues on the other side of the House have sought to portray as something far more sinister than it was.

Far from being a 'secret referrals lane', this mailbox was in part a triage for directing more credible leads, and in part an engagement/communication tool for managing correspondence from parliamentarians of all colours, including Opposition MPs. As the NAO itself says, it was right that we looked to sift credible PPE offers from others.

The most important thing to note – as the NAO does in its report – is that all PPE offers, no matter from where they came, went through the same eight stage checks. This was not a case of special treatment for friends of Ministers.

There has been excitable public commentary to say you are 10 times more likely to get through if you have Tory friends. This mail box had a higher conversion rate because, if anything, this demonstrates that the initial triage worked, as these leads were often more credible and proved fruitful once they had gone through the due diligence process.

Even so, it is important to note that of the 493 offers which came through the priority mailbox, only 47 were taken forward – in other words, 90% were rejected. Indeed, over 20,000 individual product offers were rejected between end March and mid June because of the robust due diligence processes put in place by commercial teams. Members will have likely seen a number of vocal companies who were rejected from this process making their concerns known on television. It is worth saying that the government effectively has no right of reply as in setting out candidly why these bids were rejected, commercial confidences would be broken.

So called 'Chumocracy'

The existence of this separate mailbox has added fuel to the fire of those accusing the government of 'chumocracy'.

But if they have read the NAO's report, they should have noted its conclusion that, 'we found that ministers had properly declared their interests, and we found no evidence of their involvement in procurement decisions or contract management'. Our own internal audit on PPE has also so far not found any conflicts.

No PPE contracts were awarded by reason of who referred them.

I would like to remind colleagues that ultimately there was very little waste – of all the product in question, so far only 0.5% of what was ordered has been found to be unusable.

Room for Improvement

But that is not to say that we cannot improve.

Admittedly, there was not an adequate stockpile, and the lack of a central stock control system made it difficult to get a clear grip on the demand signal coming from the NHS – this is an extremely important issue to rectify going forward.

We have also had to rapidly address a strategic over-reliance on China. We have now built up our national capability and our resilience, with the potential for 70% of PPE to be produced in the UK.

These are lasting national enhancements, which I hope will be bolstered through the work of the Department of International Trade's Project Defend which is looking into other areas where we are critically dependent on other countries for important parts of our manufacturing.

The NAO was also absolutely right in identifying delays to publishing documentation in relation to emergency procurements. The sheer pace of activity meant documentation was not perfect. The result is that contracts have not been published online as quickly as they should have, and it has been left to the Department of Health to piece together the relevant paperwork from different IT systems. I regret that this lag in our normal transparency timescales has created a sense of mistrust.

However, we are nearly there – at the time the NAO did its scrutiny work, only fifty per cent of required contract award notices had been published. As of 3 December, I can say that 96% of PPE contract award notices are now on TED (the European public procurement journal) and 94% on Contracts Finder.

Comms Procurement

I have concentrated today on PPE as this was in large part the focus of the NAO's two most recent procurement reports. However the NAO also looked at communications contracts, so I would like to spend a moment on this.

For context, a number of external research agencies were engaged by the Cabinet Office's communications unit to test public reaction to Government messaging on public health. This was crucial to helping us understand

people's attitudes and behaviours during this time, and refine public health messaging accordingly to drive behavioural change.

At the time I began my ministerial role, there were reports suggesting that some of these contracts for communications services had been improperly let, which naturally I was not happy about. Unfortunately I cannot comment in detail on the specifics of these contracts because the department is still working on its detailed defence and disclosure in the ongoing judicial review proceedings. However, I can say that following a preliminary internal fact-finding exercise, the Cabinet Office resolved to delve into this properly and commissioned an independent expert review led by Nigel Boardman to consider these findings and set out on areas for improvement, with particular reference to the process and guidance that teams in the Cabinet Office have access to.

This review and its results were yesterday published on GOV.UK. The report is rightly forensic in its analysis and hard-hitting in its recommendations and I am pleased to tell colleagues that we will be taking forward all 28 recommendations in full.

Wider Reform

Before I close, I think it is worth saying a little about some of the wider civil service reforms we are proactively pursuing that address some of the concerns beyond the NAO report:-

- On the use of consultants: We are looking at how we better skill-up civil servants and reduce our reliance on consultancy use, looking at potentially having our own in house consultancy.
- We are also consolidating the number of IT systems used across the civil service to make it easier to move people internally at speed and for their systems to be compatible.
- And we are soon launching our procurement green paper. While these proposals have long been in development, they will include specific measures to strengthen transparency and make sure we can have a choice of direct award and more competitive tendering during crises. At the moment, there is either a full fat procurement which is far too slow in emergency situations or direct award, which leads to the kinds of concerns we have debated this morning.

I know the Hon Gentleman for Liverpool Walton is concerned in particular about issues of company conduct in procurement. The Green Paper will include proposals for using the exclusion rules to tackle unacceptable supplier behaviour such as tax evasion; embedding transparency by default; and developing faster review methods to speed up the court process on legal challenges to genuinely improper procurements.

Conclusion

I would just finally say that the public is absolutely right to demand that we spend their money with care, and I hope the proactive and candid approach I have set out today is reassuring.

Ultimately, let me remind colleagues that we were procuring for a purpose: that purpose was to get us through this pandemic. We satisfied the demand from the NHS, buying 32 billion items of PPE, reporting no outages and establishing a 4 month stockpile of PPE from November 2020 onwards.

Given the extraordinary context, that's an extraordinary feat. I would finally like to pay tribute to colleagues in the civil service, in the commercial function, who may not be on the front line in NHS terms, but have done extraordinary things in this very difficult operating context and I thank them for all the work they have done.