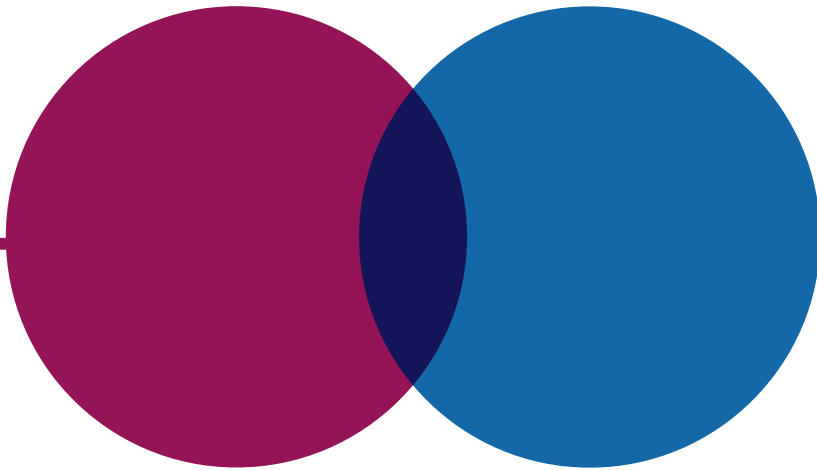




National Audit Office



# Investigation into the management of PPE contracts

Department of Health & Social Care

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**REPORT**

**by the Comptroller  
and Auditor General**

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**SESSION 2021-22  
30 MARCH 2022  
HC 1144**

## What this investigation is about

**1** This investigation examines the Department of Health & Social Care (the Department's) performance in managing Personal Protective Equipment (PPE) contracts. It provides greater transparency to Parliament and the public around what is being done by the Department when the PPE it bought cannot be used as planned. It includes analysis of:

- the PPE purchased by the Department (Part One);
- how the Department is managing the PPE that it has received (Part Two); and
- contractual issues that have arisen and how the Department is dealing with these (Part Three).

**2** Our previous reports in November 2020, *The supply of Personal Protective Equipment (PPE) during the COVID-19 pandemic* and *Investigation into government procurement during the COVID-19 pandemic* focused on how the Department procured PPE. They highlighted the context in which PPE was purchased and raised some concerns around the management and distribution of PPE that had started to arrive in the UK.

**3** Demand for PPE rocketed in England from March 2020, when NHS and care workers, together with key workers in other industries, started to require protection from patients, colleagues and members of the public who potentially had COVID-19. There was also a surge in demand in other countries. At the same time, the global supply of PPE declined as a result of a fall in exports from China (the country that manufactures the most PPE) in February 2020. Some other countries also imposed temporary restrictions on the export of PPE. The result was an extremely overheated global market – a 'sellers' market' with desperate customers competing against each other, pushing up prices and buying huge volumes of PPE often from suppliers that were new to the PPE market. In the two years that have passed the Department has been managing the PPE contracts it entered into in 2020 in an effort to reduce its exposure to risk and minimise losses to the taxpayer.

**4** In evidence to the Public Accounts Committee in June 2021, the Department's performance update suggested to the National Audit Office (NAO) that problems with the management of PPE contracts had emerged. At that time, of the 12.6 billion PPE items in stock in the UK:

- 2.9 billion items had failed initial quality assurance checks with 226 million items seen as unsuitable for use in health and social care settings;
- 3.2 billion items had not been checked; and
- 6.6 billion items had been quality-assured and approved for use in health and social care settings.

**5** Significant volumes of PPE have continued to be received in the UK. At the same time concerns have increasingly been raised in the media around whether the Department is getting what it paid for and the extent to which some suppliers have failed to deliver what they promised while still making significant profits from the taxpayer.

**6** The NAO has also been contacted by members of Parliament and the public who have expressed concerns about the quality of PPE delivered through individual contracts. Some of the contracts they highlighted were awarded through the VIP lane, referred to as the 'High-Priority Lane' by the Department, to suppliers who had not previously worked with the Department.<sup>1</sup> Some of the issues raised have been addressed in this report.

**7** In addition to looking at the PPE programme as a whole, we also examined in detail the performance of a sample of 36 contracts, with an initial total contract value of £1.8 billion. This sample was selected based on risk, considering intelligence from our previous reports and our financial audit work, as well as some randomly selected contracts. Although we looked at contracts procured by both the Department and NHS Supply Chain Coordination Limited, we viewed the Department's contracts to be higher-risk and have focused more of our work on those. Our sample is used to demonstrate the challenges facing the Department and how it is responding to these; it is not used to audit the performance of suppliers. The sample is not representative, and the findings cannot be extrapolated to all PPE contracts. The Department is currently in commercially sensitive negotiations with some suppliers where it believes suppliers have not delivered to the contracted requirement. Due to the stage that the Department is at with some suppliers, we have not reported on specific contracts as this could potentially have an impact on the Department's ongoing and future discussions with suppliers.

<sup>1</sup> The Department established a High-Priority Lane, widely referred to as a VIP lane, in April 2020 to follow up on potential offers of PPE supplies from government officials, ministers' offices, MPs and members of the House of Lords, senior NHS staff and other health professionals, that it considered to be more credible than other offers.

**8** We conducted our fieldwork between August 2021 and February 2022. Our methodology focused on contracts that delivered goods, for example aprons and face masks, rather than services such as consultancy or legal advice. The report is a factual account of what has happened since the NAO's reports in November 2020. It does not seek to examine and report on the value for money of contracts either individually or collectively. Appendix One sets out our methods in more detail.

# Summary

## Key findings

How the Department of Health & Social Care (the Department) has purchased Personal Protective Equipment (PPE) and the costs of this

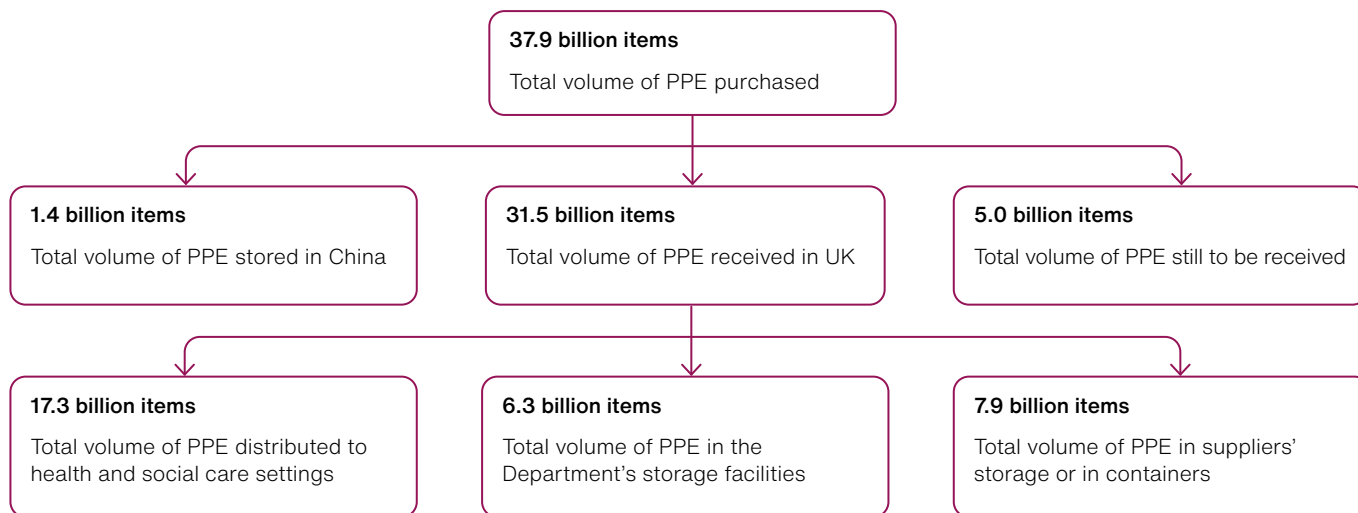
**9 The Department has awarded 394 contracts, worth £7.9 billion, through two new procurement routes created to purchase PPE.** The rate and scale of procurement to deal with the unprecedented demand for PPE at the start of the pandemic created a number of contract management risks. The Department awarded almost 10,000 contracts in total with a total planned expenditure of £13.1 billion. These contracts are expected to deliver 37.9 billion items of PPE (**Figure 1** overleaf). The Department agreed contracts to purchase a range of PPE including gowns, gloves and masks at an unprecedented rate and scale beginning in February 2020. The Department entered into contracts via three main routes, with the greater part of the expenditure going through two newly created routes:

- **The existing NHS Supply Chain Coordination Limited (SCCL):** The SCCL was established in 2018 to manage the sourcing, delivery and supply of healthcare products and food for NHS trusts and certain other healthcare organisations across England. Some 9,492 contracts for PPE were agreed in this way totalling £5.2 billion.
- **A new Parallel Supply Chain:** Established by the Department in late March 2020 because the Department acknowledged existing procurement routes could not purchase the volumes needed. Through this route, 357 contracts were agreed, totalling £6.9 billion.
- **A new UK Make route:** Established by the Department in April 2020 to purchase PPE from UK-based manufacturers. Some 37 contracts were agreed in this way totalling £1.1 billion (paragraph 1.3).

**Figure 1**

The Department of Health & Social Care (the Department) has received 31.5 billion items of Personal Protective Equipment (PPE) in the UK

**Fifty-five per cent of PPE received into the UK has been distributed to health and social care settings following quality checks**



**Note**

1 These data come from the Department of Health & Social Care's stock model. Analysis of these data show they include items that are not classified as PPE. For example, there are 836 million swabs and 404 million testing kits included in the data. The data presented are subject to change.

Source: National Audit Office analysis of Department of Health & Social Care data

**10 Of the 394 contracts awarded through the Parallel Supply Chain and UK Make, 115 were awarded to 51 VIP lane suppliers, referred to as the 'High-Priority Lane' by the Department.** Some 493 potential suppliers were suggested by government officials, ministers' offices, members of Parliament, senior NHS staff and other health professionals through a VIP lane. Contracts agreed through the VIP lane totalled £3.8 billion and were expected to deliver 7.8 billion items of PPE. The Department's process for checking suppliers evolved over time, and in May 2020 it introduced an eight-stage due diligence process. The Department told us that before May 2020, it conducted some due diligence such as financial, commercial and legal checks but not all of these were completed before contracts were awarded. Forty-six out of the 115 contracts awarded to VIP lane suppliers did not go through the eight-stage due diligence process as they were awarded before May 2020. This indicates that the Department was not in a position to fully understand the contract management risks it was exposing itself to with some of these suppliers (paragraph 1.6).

**11 The Department has reported that by January 2022 it had spent £12.6 billion on PPE against total contractual commitments of £13.1 billion.** Of the £12.6 billion, the Department reports that £6.6 billion has been spent through the Parallel Supply Chain, £4.9 billion through SCCL and £1.1 billion through UK Make. The Department does not routinely report on its expenditure by contracting route; instead, it monitors expenditure by the type of PPE purchased, for example aprons or gloves (paragraph 1.8 and Figure 4).

**12 The Department paid £2.5 billion to suppliers through 298 upfront payments made before PPE was received.** Due to the highly competitive global demand for PPE at that time, the Department accepted that upfront payments, often insisted upon by suppliers, were necessary to prevent contracted PPE being gazumped while in transit. Fifty-two (17%) upfront payments were made to new suppliers it entered into contracts with after the Government's Counter Fraud Function issued advice in May to avoid upfront payments. The Department has identified five contracts with prepayments, worth a total of £19 million, where it believes there is still a risk of non-delivery of the PPE. It is currently seeking a resolution on all of these contracts (paragraphs 1.9 and 1.10).

**13 The Department has received 31.5 billion items of PPE in the UK, with 1.4 billion stored in China and 5.0 billion still to be received.** Of the 31.5 billion items received in the UK, some 17.3 billion items (55% of received PPE) have been distributed to health and social care settings following quality checks. The remaining 14.2 billion items remain in UK storage including: 6.3 billion items stored across its 50 warehouses, with the remainder housed temporarily at suppliers' locations (2.3 billion) and in containers (5.6 billion). The Department estimates the initial purchase price of items yet to be distributed is £8.6 billion. Assessing the total demand for PPE at the start of the pandemic was extremely challenging due to the unprecedented nature of COVID-19 and the precise technical specifications for the PPE necessary to respond to it. By July 2020 the Department had largely stopped buying PPE as it already had "more than enough stock". The Department estimates it has 3.9 billion more PPE items than it needs, around 10% of the total PPE purchased and is trying to dispose of these items through sales (305 million items), donations to other parts of the public sector (253 million items) and recycling (232 million items). Storage figures are drawn from the Department's stock model, which it believes gives it an accurate high-level overview of its PPE. When we attempted to reconcile stock numbers on individual contracts, however, we were unable to gain assurance over its accuracy (paragraphs 2.2, 2.3, 2.8, 2.9, 2.10, Figure 1 and Figure 6).

**14 By November 2021, it had cost the Department £737million to store PPE, £436 million of which was due to the Department not being able to remove items from shipping containers on time.** The Department has incurred penalty charges of £436 million because it did not have sufficient storage capacity in the second half of 2020 and had to store PPE in containers for longer than planned. It has spent £301 million on regular storage costs (that is, non-penalty charges). The Department started to expand its warehousing capacity in late 2020, reducing its monthly storage costs (including charges) from £103 million in November 2020 to £61 million in March 2021, and down to £27 million in November 2021. The Department is currently spending an estimated £7.0 million a month storing 3.9 billion items it does not need. The Department is still to receive an additional 5.0 billion items of PPE into the UK (paragraphs 2.5, 2.6, 2.7, Figure 7 and Figure 8).

**15 The Department has identified some 3.6 billion PPE items that it has concluded are not currently suitable for front-line services, equivalent to 11% of all PPE it has received.** These items were purchased at a cost of £2.9 billion. This compares with the Department's planning assumption that 20% of PPE might not be suitable for front-line services. Some 64% of all items assessed as not currently suitable for front-line services were procured through the Parallel Supply Chain and UK Make. Our analysis of departmental data shows that 53% of VIP lane suppliers provided some PPE items that are classified as not currently suitable for front-line services. PPE considered not currently suitable for front-line services includes:

- 1.1 billion items that cannot be used in health and social care settings, such as face visors that met the Department's specification, but ultimately required assembly, which was considered too time-consuming. The initial cost of these items was £1.8 billion. These items may be suitable for use in other parts of the public sector;
- 1.0 billion items that are wastage, purchased at an initial cost of £439 million. These items, equivalent to 3% of all stock that has been received and checked, cannot be used in any way. Some 99% of wastage items were procured through the Parallel Supply Chain and UK Make– 25% of VIP lane suppliers provided PPE that was wastage; and
- 1.4 billion items for other reasons such as incomplete paperwork or concerns about modern slavery, purchased at a cost of £646 million. The omission of paperwork means items cannot be confirmed as suitable for front-line services. If the required paperwork is received, the Department may then be able to distribute these items (paragraphs 2.11, 2.12 and 2.14).



**16 The Department has 1.5 billion items of PPE where it estimates that the expiry date for use has already passed.** The Department estimates the cost of these expired items to be £619 million. In addition, of the 3.9 billion items of excess stock, the Department estimates that 51% have an expiry date that is less than six months away. The Department has estimated the expiry date of its PPE by sampling PPE items it has in storage rather than complete data (paragraphs 2.9, 2.16 and Figure 11).

### Managing contract risks

**17 The management data that the Department holds show inconsistencies between the volume of PPE ordered and quantities reported through stock counts.** In the data provided to us we found in 21 of the 36 contracts there were differences of more than 1% between how many PPE items the Department had contracted for and how many it reports as stock. The Department does not have a single end-to-end stock management system and has explained that discrepancies in stock data arise for several reasons including double-counting as PPE is moved between locations, and some stock being missed from the count, for example in cases where items are held in storage by the supplier. Our analysis found that the Department's stock data showed it held a total of 107 million fewer items than it had contracted for across 14 of the 21 contracts where there were discrepancies. Across the remaining seven contracts, the Department held 13 million items more than it had contracted for. For example, when the Department negotiated to reduce a contract for 71 million face visors to 53.7 million visors it had already taken receipt of 54.3 million visors. As a result it was unable to reduce the costs quite as much as planned and had to pay for these additional visors, even though all of the face visors delivered through this contract are held as items not currently suitable for use in front-line services because alternative products are preferred by the NHS (paragraphs 2.3 and 2.4).

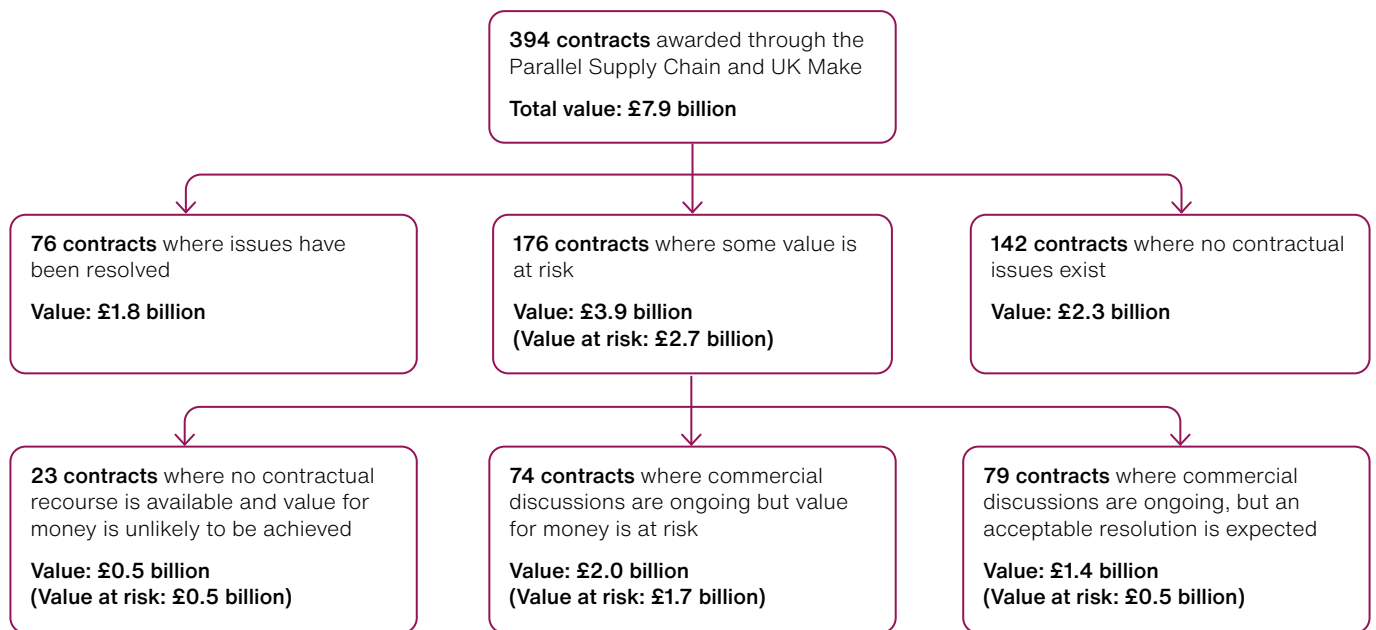
**18 The Department has concluded discussions about contract disputes on 76 contracts with a total value of £1.8 billion (Figure 2 overleaf).** This included issues such as product quality, expiry dates and the timeliness of deliveries. The Department resolved these issues in a number of ways, including:

- 18 contracts where the Department has agreed variations to contracts that have reduced costs by an estimated £264 million;
- 12 contracts, worth £218 million, where the Department has either cancelled, terminated or rejected the contract completely; and
- 46 contracts where issues such as product quality or timing of deliveries have been resolved with the supplier (paragraphs 3.4, Figure 2 and Figure 12).

**Figure 2**

The Department of Health & Social Care’s (the Department’s) assessment of value at risk across the 394 contracts that it is managing

The Department assesses that it has 176 contracts at risk of not achieving value for money, with the total amount at risk being £2.7 billion



**Notes**

- 1 Of the 394 contracts the Department is managing, three relate to contracts for fit testing of PPE worth £23 million. These are service contracts, but the Department includes them in its data for PPE contracts.
- 2 Numbers may not sum due to rounding.

Source: National Audit Office analysis of Department of Health & Social Care data

**19 The Department estimates that on 38 contracts it has reduced volumes or cancelled contracts and expects to secure £572 million in reduced costs as a result.**

The Department is still working to secure some of these savings so it is not certain that all of them will be realised. The savings calculation includes some savings that are attributable to the associated reduction in storage costs. We also found contracts where the Department has agreed to accept replacement or alternative items, but it has not always needed the replacement PPE. Its estimate includes:

- 18 contracts where the Department has resolved commercial issues by agreeing variations with estimated savings of £264 million (as set out in paragraph 18 above);
- 18 contracts where the Department is continuing to discuss issues with suppliers, with estimated savings of £283 million; and
- two contracts where no commercial action has been taken, with estimated savings of £25 million.

In our sample we reviewed a contract for 16.5 million face masks (specifically FFP2 masks) that the Department concluded were not currently suitable for front-line services. As part of resolving this dispute, the Department secured a reduction in the overall contract value, and the supplier bought back the FFP2 masks with the Department agreeing to purchase 60 million alternative face masks (specifically Type IIR), of which it currently has surplus quantities (paragraph 3.5).

**20 The Department is managing 176 contracts where it believes it may not achieve full value for money, with an estimated £2.7 billion at risk.**

The total value of these contracts is £3.9 billion, but the Department's assessment is that not all of this money is at risk as at least some PPE from these contracts may have passed quality checks. Some 57 of the 176 contracts were awarded through the VIP lane, valued at £2.0 billion, with an estimated £1.4 billion at risk (37% of the total value of all VIP lane contracts). The 176 contracts include:

- 23 contracts where the Department believes that it does not have contractual recourse available to it and value for money is unlikely to be achieved;
- 74 contracts where the Department believes that value for money is at risk; and
- 79 contracts where the Department believes an acceptable resolution can be found (paragraphs 3.6, Figure 2 and Figure 12).

**21 The Department's 176 contract disputes are at different stages of the dispute resolution process (Figure 3).** The Department is continually assessing the likelihood that issues can be resolved or whether they need escalating to another stage of the dispute resolution process. It is managing:

- 83 contracts that are at the first stage of review, meaning documentation is being examined and issues are being discussed with suppliers;
- 59 contracts that have ongoing formal commercial discussions;
- 27 contracts that are undergoing a mediation process to help resolve issues;
- seven contracts that are discussing settlement agreements; and
- 0 contracts have entered litigation.

The Department expects it will not resolve issues in 35% of these contracts until 2023 (paragraphs 3.8, 3.9, Figure 3 and Figure 14).

### Figure 3

The Department of Health & Social Care's (the Department's) progress in resolving contracts in dispute

The Department has reached the first stage of commercial resolution on 83 out of 176 contracts

Commercial resolution stage	Number of contracts	Total value of contracts (£m)
Contract review	83	796
Commercial discussions	59	1,835
Mediation	27	994
Settlement	7	231
Litigation	0	0
<b>Totals</b>	<b>176</b>	<b>3,885</b>

#### Note

- 1 Data in the 'Total value of contracts' column shows the total value of the contracts. They do not show the Department's assessment of the value at risk.

Source: National Audit Office analysis of Department of Health & Social Care data

**22 In around two-thirds of disputed contracts (117 out of 176 contracts) the primary cause of contractual dispute is the quality of PPE that has been delivered.**

The value at risk in these 117 contracts is £2.2 billion. A further five contract disputes relate to PPE not being delivered. A further two contract disputes relate to payment issues. The remaining disputes are due to a range of issues including expired products and missing documentation (paragraph 3.10).

**23 The Department has told us it expects fraud and error to be between 0.5% and 5% of PPE expenditure.**

This is the Department's best estimate, and it expects to have finalised its estimate by early summer 2022. The Department is undertaking work looking at the risk of fraud on a sample of contracts, including some of those awarded through the VIP lane. Government's Counter Fraud Function advised the Department in May 2020 that "fraud and irregular spending will be happening – the question is not whether, but how much and how it can be limited". The Department estimates the checks it put in place have prevented £139 million of fraud occurring and recovered a further £18 million (paragraphs 3.14 and 3.16).