Closing the COVID Accountability Gap:
Enhanced Financial Oversight in the United Kingdom

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In 2021, the International Budget Partnership published an assessment of 120 countries’ management of COVID relief, which found that too many governments were using the excuse of urgency to avoid being as transparent, accountable or inclusive as they could be. These shortcuts and limitations, however, are neither necessary nor inevitable. IBP’s report showcased notable instances in which governments acted swiftly to put in place adequate transparency around their policy responses, where accountability institutions — such as legislatures and supreme audit institutions (SAIs) — stepped up to provide effective oversight, and civil society organizations contributed information on the needs of the most vulnerable. In a series of briefs, we have taken a more in-depth look at these good practices — delving into government objectives in implementing the practices, the impacts achieved, and lessons that can be drawn from these practices for their replication in other countries. The main goal of these briefs is to provide governments with information on good practices in fiscal openness and accountability that they can incorporate into their own policies, to be implemented during periods of crisis and beyond.

This study describes how, in the United Kingdom, the COVID-19 pandemic led to enhanced financial oversight by auditors and legislators, who adapted their work programs to better respond to the challenges at hand. The U.K. government, like other governments around the world, has responded to the COVID-19 pandemic by relaxing financial controls and streamlining spending approval. For example, using the Extreme Urgency provision of the 2015 Public Contract Regulations has permitted U.K. authorities to expeditiously procure goods, services and works during the COVID-19 crisis (Government of the United Kingdom, 2020). While this has enabled speedy action, it has also increased the risk of fraud and error. The government has also accepted other trade-offs resulting from acting quickly, such as paying higher prices for certain goods, including ventilators and personal protective equipment (PPE) (National Audit Office, 2021).

“In 2021, the International Budget Partnership published an assessment of 120 countries’ management of COVID relief, which found that too many governments were using the excuse of urgency to avoid being as transparent, accountable or inclusive as they could be.”
The start of the pandemic also saw a flurry of ministerial directions,¹ which are formal instructions from ministers telling their departments to proceed with a spending proposal despite an objection from their permanent secretary. During 2020, 19 ministerial directions were published, compared with an average of five per year between 2017 and 2019. Some of these proposals were substantial, including the £23 billion Bounce Back Loan Scheme. Although this was largely due to the timing of the pandemic (the U.K. financial year closes in early April, and departments were unable to authorize the expenditure of money they did not have), a ministerial direction is a tool used when there is a significant doubt about a proposal being good value for money or the possibility of it being effectively implemented (Public Accounts Committee, 2021b; Government of the United Kingdom, 2021a).

While some controls have been relaxed, the overall framework of government spending set out in the government’s protocol “Managing Public Money” (updated, 2021) has remained in place throughout the pandemic as the basis for accounting officers’ decision-making to ensure that public funds are used in the public interest (Government of the United Kingdom; 2021a; National Audit Office, 2021).

The U.K. government has received criticism for its handling of the COVID crisis, particularly concerning public contracts related to PPE and other COVID-19 related goods and services. Several articles have been written about this, including in the Guardian (Monbiot, 2020) and the Financial Times (Jack and Dodd, 2020). Members of Parliament have used the parliamentary floor to question the government about certain contracts,² and an effort by the Good Law project, a not-for-profit campaign organization, to hold the government to account for contracts made during the pandemic has received widespread attention. In June 2021, the High Court found one of the public contracts made by the Cabinet Office with a public relations firm with close ties to a government minister and advisor to have been unlawful and to have given rise to apparent bias. The Good Law Project has won another High Court battle, which ruled that the government had acted unlawfully by failing to publish the details of some COVID contracts (Williams and Geoghegan, 2021).

¹Permanent secretaries, who are directly accountable to Parliament for how the department spends its money, have a duty to seek a ministerial direction if they think a spending proposal breaches any of the following criteria: regularity (if the proposal is beyond the department’s legal powers or agreed spending budgets); propriety (if it does not meet “high standards of public conduct,” such as appropriate governance or parliamentary expectations); value for money (if something else, or doing nothing, would be cheaper and better); and feasibility (if there is doubt about the proposal being “implemented accurately, sustainably or to the intended timetable”) (National Audit Office, 2021).

²See, for example, the September 3, 2020, speech by MP Deidre Brock, available at: https://twitter.com/DeidreBrock/status/1301481628808679424
The National Audit Office responds to emergency spending

The use of emergency legal provisions and other relaxation of financial controls triggered an institutional response in the U.K. The response started with the National Audit Office (NAO), the UK’s supreme audit institution, whose role is to be a public-spending watchdog.

The NAO responded by undertaking a substantial program of audit work with a special focus on the government’s response to COVID-19. In particular, the institution looked at how the government adapted its approach to reflect the need for urgency in the first phase of the pandemic, and how it is managing the attendant risks to probity in public spending.

Ensuring transparency and having a clear audit trail\(^1\) to support key decisions are important controls to mitigate the risks associated with emergency direct awards (contracts that are awarded without competitive bidding due to the emergency) and to safeguard accountability, even when the government must act quickly, and other controls (such as competitive bidding) are not in place. Thus, when emergency laws were enacted at the start of the pandemic, and the Cabinet Office changed some of the procurement rules for contracts relating to the response to COVID-19, concerns (including lack of transparency) were raised about some of these procurements. Consequently, two major audit reports concerning financial transparency were published in late 2020, one about the way the government has handled procurement during the pandemic, and one specifically on its procurement and contracts for PPE (National Audit Office, 2020a; 2020b).

From these reports, it is evident that the government has not always lived up to the high standards it has set for itself.\(^2\) On the procurement of PPE and other goods and services using emergency direct awards, the NAO focused attention on the high-priority lane that the cross-government PPE team established early on to assess and process potential PPE leads referred by government officials, ministers’ offices, MPs and lords, senior National Health Service staff and other health professionals. The PPE team considered that leads referred by these sources were more credible or needed to be treated with more urgency. However, the NAO found that the sources of the referrals to the high-priority lane had not always been documented — making these contracts vulnerable to conflicts of interest — and that there was not always a clear audit trail to support key decisions, such as why some suppliers with low due diligence ratings were awarded contracts.

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\(^1\)An audit trail consists of a positive set of links for each transaction or balance from source to account and back. A proper audit trail: i) ensures that all, and only, proper transactions and balances are included in the accounts; ii) comprises a positive set of links for each transaction or balance from source to account, and back; iii) must cope with bulk postings such as payroll e.g. through control totals, and iv) must deal with paperless transactions, e.g. through retention of trail data within the system (National Audit Office, 2007).

\(^2\)Including those set out in the government’s protocol “Managing Public Money” (Government of the United Kingdom, 2021a).
The NAO also found that many of the contracts awarded during the pandemic had not been published on time. Of the 1,644 contracts awarded across government up to the end of July 2020 with a contract value above £25,000, 75% had not been published within the 90-day target on Contracts Finder — the U.K. searchable portal for information about contracts with the government and its agencies (National Audit Office, 2020c; 2021).

The NAO has offered several recommendations to rectify these problems and ensure that, should the widespread need to procure goods with extreme urgency reoccur, the associated risks to public money and property would be managed effectively. One of these recommendations is for government to identify and manage potential conflicts of interest and bias earlier in the procurement process. Another recommendation is for contract-awarding bodies to publish basic information on contracts in a reasonable time, in line with guidance to publish within 90 days of the award (National Audit Office, 2020c; 2021).

The NAO’s work program has covered many other themes as well. The NAO has thus far published 17 reports focusing on key parts of the government response to the pandemic. Many of the key programs are covered in these reports, such as the employment support schemes (the Coronavirus Job Retention Scheme and the Self-Employment Income Support Scheme), the Bounce Back Loan Scheme and the National Health Service’s Test and Trace. These resources are all published on a COVID-19 hub5 developed to support the Parliament in understanding the government’s response to the pandemic (Davies, 2020).

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Holding the government to account

The U.K.’s institutional response to COVID-19 continued from the NAO to the Parliament’s Public Accounts Committee (PAC). The PAC makes recommendations to the government, which in turn is obligated to respond to the recommendations within two months. The PAC thereafter requests information from the government on the status of implementation of the recommendations, and the government’s progress on implementation is published in the Treasury minutes. The PAC will recall accounting officers if it is not satisfied with the quality of a department’s performance after committee hearings.

The role of the PAC is to hold government officials to account for the economy, efficiency and effectiveness of public spending and is the primary recipient of the NAO audit reports. As a result, the NAO’s response to the relaxation of financial controls at the onset of COVID-19 had a spillover effect on the PAC and its work program. Consequently, since the start of the pandemic, the PAC has prioritized its work on the various COVID-19 response schemes to aid transparency, monitor spending and risk, and ensure that key lessons are adopted as swiftly as possible (Public Accounts Committee, 2021b).

Following publication of the NAO’s audit report, the PAC concluded that the high-priority lane set up by the government PPE buying team to separately assess and process leads that it considered more credible was not designed well enough to be wholly effective. Moreover, it criticized the assumption that was made about government officials, ministers’ offices, MPs and members of the House of Lords being able to offer more credible leads for suppliers (Public Accounts Committee, 2021b).

Following this conclusion, the PAC has already asked the government to publish the lessons it has learned from the procurement of PPE during the pandemic for future emergencies and ensure these are applied across the wider government commercial function. These lessons should include guidance for determining what is considered a credible offer and how this is communicated to potential suppliers (Public Accounts Committee, 2021b).

The PAC held two evidence hearings in mid-December 2021 on the findings from its inquiry into government procurement in response to the COVID-19 pandemic, particularly concerning securing the necessary supply of PPE. In the first hearing, it questioned representatives of frontline medical and care associations and in the second hearing, it questioned senior officials at the Cabinet Office and the Department for Health and Social Care. The PAC has invited anyone with evidence to submit it for the inquiry (Public Accounts Committee, 2021a).

As mentioned earlier, COVID-19 related procurement and contracts have received some attention in the media, and consequently this inquiry has received relatively extensive engagement from the public, including evidence submitted. All this evidence is published on the PAC’s website together with transcripts of the oral evidence given by the government and written government responses.7

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6These minutes are published at https://www.gov.uk/government/collections/treasury-minutes
7For this specific inquiry, the government’s response (oral and written) are available at https://committees.parliament.uk/work/777/covid19-government-procurement-and-supply-of-personal-protective-equipment/publications/
The impact achieved by the NAO and the PAC

What impact can be gauged from the COVID-19 related work programs carried out by the NAO and the PAC? The response to this question can be examined via changes to the way these institutions have worked in response to the pandemic and by looking at changes in government behavior due to the work of the NAO and the PAC.

That the NAO would investigate government practices concerning COVID-19 and the PAC would launch inquiries based on these audit reports was to be expected — this is how the system works. The U.K. has a comparatively high-functioning financial accountability system, scoring well above average on both audit and legislative oversight functions in the most recent Open Budget Survey, from 2019 (89 and 100 out of 100, respectively) (International Budget Partnership, 2020).

But what has been different in this case is the speed of the institutional response. According to the chair of the PAC, “We have examined COVID-19 schemes early on in the hope that lessons can be learned quickly, and taxpayers’ money protected” (Public Accounts Committee, 2021b: 3). The near real-time audits and PAC reports have enabled the government to course-correct and improve during the pandemic, rather than waiting until a fuller picture could emerge (with the damage already done). For example, the government has acknowledged the backlog of contract details awaiting publication and has ensured in its response that resources are now being devoted to this (National Audit Office, 2021).

The NAO and the PAC have also placed extensive emphasis on holding the government to account for adhering to its standards, regardless of the existence of an emergency. In the beginning, the audit reports and PAC inquiries focused much more on the processes and procedures by which the government spent public money, as opposed to the outcome and value for money of that spending.

By focusing on upholding standards, the NAO and the PAC have signaled to the government that the exceptional nature of the COVID-19 period is no reason to override the rules in place. As the chair of the PAC stated about the emergency contracting provision, “Parliament gave government permission to act fast, not fast and loose. It is therefore a matter of real concern that the PAC has regularly highlighted instances of poor record-keeping and late publication of contracts” (Public Accounts Committee, 2021: 6).

In the report titled “Initial learning from the government’s response to the COVID-19 pandemic,” the comptroller and auditor general at the NAO point out the importance of course correction and upholding standards: “The government must act quickly on learning points while adhering to required standards of transparency and accountability even in emergencies. This goes beyond meeting legal (or audit) requirements. It involves adhering to the standards that government has set for itself to maintain and strengthen public trust” (National Audit Office, 2021: 4).
Response from government

Several of the PAC's reports related to COVID-19 have already received formal responses from the government. These responses set out what the PAC's recommendations were and how the government has implemented or will implement those recommendations. Per the rules, these responses are given in the Treasury Minutes Progress Report (Government of the United Kingdom, 2021).

For instance, the Cabinet Office has accepted that there was lack of transparency regarding many contracts awarded and that the emergency procedures did not remove the departments’ responsibility to properly manage conflicts of interest (Public Accounts Committee, 2021).

In terms of concrete government action, the PAC report on COVID-19 Supply of Ventilators concluded that regardless of the speed at which the Department of Health and Social Care had to operate during the pandemic, it still had a duty to carry out full due diligence for all parts of the supply chain. Subsequently, the PAC made the recommendation to the Cabinet Office to set out what updates it plans to make to its guidance to help departments meet this requirement during emergency procurements. In its response to the PAC, the government agreed with this recommendation and subsequently published the Procurement Policy Note 01/21 - Procurement in an Emergency and has committed to publishing additional guidance on conflicts of interest (Government of the United Kingdom, 2021).

Despite achieving positive changes of this sort, the chair of the PAC has expressed the need for a renewed emphasis on openness across government, noting that when Parliament gives government license to act at speed, it cannot take this as an opportunity to act without transparency: “With more power in its hands, government needs to be more inclusive” (Public Accounts Committee, 2021: 16).
Lessons from the U.K.

The U.K. auditing response to the pandemic offers several lessons for oversight institutions in other countries.

First, the relaxation of financial controls, large spending packages and shifts in policies due to COVID-19 triggered an institutional response from the supreme audit institution, which in turn activated a legislative response that ultimately resulted in course corrections by the government. This shows that the auditing cycle can work effectively during times when other parts of the accountability system may not be fully effective. For example, ministers have faced far less direct scrutiny in the U.K. Parliament during the pandemic than in normal times (Public Accounts Committee, 2021).

Another lesson learned is that supreme audit institutions and legislative committees, like the PAC, can hold the government to account and help redirect its practices in real time and do not have to wait until a full picture has emerged to fulfill their functions.

Finally, the institutional response to COVID-19 in the U.K. shows that these oversight institutions have an important role to play in ensuring that governments’ standards (for example, in terms of procurement transparency and contracting integrity) are upheld even in times of emergency, when executive power tends to be stronger than in normal times.
References


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