

The COVID-19 outbreak is a Public Health Emergency of International Concern as declared by the World Health Organisation on 30 January 2020. The WHO Director General characterised COVID-19 as a pandemic on 11 March 2020.

The use of ventilator equipment is critical in treating patients with COVID-19 to take over the body's breathing process when the disease has caused the lungs to fail and allow the patient time to fight off the infection and recover.

In March the NHS across the UK had access to approximately 8,000 ventilators. Modelling based the trajectory of other European countries forecast the need for significant and extremely rapid increase in the UK ventilator capacity. The Prime Minister set the ambition on 16 March 2020 for industry to manufacture as many new ventilators as possible, recognising that coronavirus is the biggest threat this country had seen for decades and that we faced a moment of national emergency. Significant quantities of extra ventilators would be required to treat seriously ill patients during the first wave of infections. Similar shortfalls in ventilator stocks were identified globally. Pressure to increase manufacturing capacity of ventilators was immense, requiring novel designs and new supply chains to be rapidly created to meet that demand. In these circumstances a procurement following the usual timescales under the PCR 2015, including accelerated options, was impossible. Ventilator manufacturers and supply chains were under immediate and unprecedented global pressure to provide products. A delay in engaging with the market by running a usual procurement process ran the risk of failing to acquire the necessary stock of ventilator equipment and presenting a significant risk to life.

Cabinet Office is satisfied the tests permitting use of the Negotiated procedure without prior publication (Regulation 32(2)(c)) are met:

1. As far as is strictly necessary: The Ventilator Challenge was identified as strictly necessary to meet anticipated demand on the NHS during the first wave of cases in the UK.
2. There are genuine reasons for extreme urgency: It is responding to COVID-19 immediately because of public health risks presenting a genuine emergency.
3. The events that have led to the need for extreme urgency were unforeseeable: The Commission itself confirmed: "The current coronavirus crisis presents an extreme and unforeseeable urgency – precisely for such a situation our European rules enable public buyers to buy within a matter of days, even hours, if necessary." (Commissioner Breton, Internal Market, 01.04.2020).
4. It is impossible to comply with the usual timescales in the PCR: There was no time to run an accelerated procurement under the open, restricted or competitive procedures with negotiation that would allow it to secure delivery of products, particularly in light of the corresponding delays to timelines associated with securing increased manufacturing capacity and component supply within the required timescales.
5. The situation is not attributable to the contracting authority: It has not done anything to cause or contribute to the need for extreme urgency.