



Public Accounts Committee

Schillings
12 Arthur Street
London
EC4R 9AB

Sent by email
Ref: MB/HH/EC/R0282/004

20 October 2022

Government's contracts with Randox Laboratories Ltd

Dear Madam or Sir,

Having considered your correspondence of 25 and 26 July and 14 September 2022 on behalf of your client, Randox Laboratories Ltd, requesting that the Committee withdraw from publication or amend its Seventeenth Report of Session 2022-23, *Government's contracts with Randox Laboratories Ltd*, the Committee remains clear that neither the Report nor the press notice published in July are in any way defamatory or inaccurate.

Freedom of speech in Parliament and its committees is a fundamental constitutional principle and the Public Accounts Committee, like other Parliamentary select committees, has a crucial role in scrutinising the government and value of public spending. The focus of the Committee's inquiry and the subsequent Report was the work of the Department for Health and Social Care and not Randox Laboratories Ltd. The Committee has agreed the Report and reported it to the House, which has ordered its publication, and it cannot and should not be altered or withdrawn.

In the interests of transparency, the Committee has agreed to publish your letters of 25 and 26 July and 14 September, so that they will appear on the Committee's website alongside the Report. The Committee disputes the specific allegations contained in your letter of 14 September as set out below.

The Committee based its inquiry on the National Audit Office ("the NAO") *Investigation into the government's contracts with Randox Laboratories Ltd*, published in March 2022. According to the usual methodology followed by the NAO in preparing its reports, it provided Randox, alongside the Department of Health & Social Care (DHSC) and others, with the opportunity to review its report to confirm its factual accuracy and took into account the comments they provided. Once the NAO has published a report it is normal practice for the Committee to treat the facts set out within it as agreed by all parties and to rely on them accordingly. Like the NAO, the Committee focused in its inquiry and Report on the actions of the DHSC in awarding and managing contracts with Randox between January 2020 and December 2021 and not on the activities or general performance of Randox itself.

As you have been advised previously, the Committee issued a call for evidence in relation to its inquiry – titled 'Government's contracts with Randox Laboratories Ltd' – on 26 April 2022. Your client was clearly aware that the inquiry was taking place, as your client's representative at Woburn Partners contacted the Committee office in June to request details of publication. Your client was informed, through that correspondence, that an embargoed copy would be provided 48 hours in advance. No



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request for further time was made. Your client has chosen not to engage in the inquiry, although invited to do so.

Your letter alleges that the Committee's Report makes certain "misrepresentations". These are addressed in turn below.

Profits

Your letter implies that the Committee's Report stated that "Randox "profiteered" hundredfold". The only reference to the term quoted in your letter is contained in the following sentence from the Committee's Report: "The Department was therefore unable to offer a view on whether there had been profiteering on testing contracts."¹

Your letter also claims that the Committee's Report is incorrect to say that Randox's profit had increased a hundredfold in the year to 30 June 2021.

Randox's accounts for the financial year ended 30 June 2021 show a reported profit of £177 million for that year, compared to a restated profit for the previous 18 months of £1.225 million. This means that the reported profit for the year to June 2021 is over a hundred times more than the profit reported for the previous 18 months, as stated in the Report.

It is unclear on what grounds you assert that it is misleading for the Report to refer to this reported profit figure, especially given Randox's own directors use precisely that figure to describe the company's performance. The figure for "Profit for the financial year/period" is contained within the profit and loss account in Randox's accounts and is also the profit figure that Randox's directors use in describing the company's performance in the accounts.²

It is always possible to derive different profit figures by taking into consideration any number of points from an annual accounts document. NAO financial auditors have advised that financial reporting standards provide a robust basis for determining bottom-line profit; it is clearly not incorrect to use the bottom-line figure labelled as profit in the profit and loss account, and which is described as such in the directors' strategic report, to provide a year-on-year comparison of financial performance.

Further, your letter states that the Committee's Report fails to factor in any consideration of the risk that Randox assumed at the time, and that Randox incurred significant investment costs at the outset of the pandemic, including building the IT infrastructure for registration and reporting. The Report

¹ Public Accounts Committee, Seventeenth Report of Session 2022–23, *Government's contracts with Randox Laboratories Ltd*, HC 28, Conclusions and recommendations, para 6

² Randox Laboratories Ltd Accounts 2021, Directors' strategic report, page 4



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noted on this point: "Randox benefited from substantial capital investment which was included in the price the Department paid for its first contract with Randox"³. Your letter also states that it would be inaccurate to infer that these profits came from government contracts alone. The Report does not state that the increase in profits was due to government contracts alone.

VIP lane

Your letter suggests that the Committee's Report implies that Randox may have been fast-tracked through 'VIP' routes.

The Report does not say that Randox was routed through a VIP lane. Conclusion 3 of the Report states: "We are also concerned about the Department's prioritisation of testing suppliers through VIP and priority routes, including those referred by ministers, MPs or Number 10"⁴, in the context of wider concerns expressed about the Department's failure to deal with potential conflicts of interest.

The Report also makes clear that the Committee's concern about VIP routes relates to other contracts with testing suppliers. Indeed, the Report explicitly notes that the concern relates to "other contracts with testing suppliers"⁵.

Performance

Your letter discusses Randox's performance.

The Committee's Report notes – in relation to decisions made by DHSC – that Randox took longer than expected to increase its testing capacity, saying in conclusion 5 that there were "performance issues with the first contract, which meant Randox took longer than expected to increase its testing capacity"⁶. This is supported by paragraph 16 of the NAO report, copied below, which explains that Randox did not increase testing capacity as expected and the reasons why. The "Newton Report" mentioned in your letter is the same report referred to by the NAO (below) as that "commissioned by the Department in June 2020". As the section of the NAO report below explains, while the Newton report had given a positive assessment of Randox's technical capacity, Randox was unable to improve capacity in line with the projections set out in that report.

³ Public Accounts Committee, Seventeenth Report of Session 2022–23, *Government's contracts with Randox Laboratories Ltd*, HC 28, Summary, para 3

⁴ Public Accounts Committee, Seventeenth Report of Session 2022–23, *Government's contracts with Randox Laboratories Ltd*, HC 28, Conclusions and recommendations, para 3

⁵ Ibid, Record-keeping and transparency, para 12

⁶ Ibid, Conclusions and recommendations, para 5



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"The Department contracted for service levels which were not met until September 2020, in part because of factors outside of Randox's control. This was because it took Randox longer than it expected to increase capacity, there was lower demand in the system than the Department had forecast and various logistical challenges arose which prevented Randox from operating at full capacity. Randox experienced delays in securing the additional equipment and consumables needed to increase capacity because of a highly competitive market caused by the pandemic. The Department told us that Randox agreed to extend the period that it would test beyond the contract's expected end in June 2020. It also agreed to test any sample sent to it rather than just its own kits and bore the financial costs of doing this. A report commissioned by the Department in June 2020 had given a positive assessment of Randox's technical capacity, but Randox was unable to increase capacity in line with the projections set out in that report. By the end of September 2020, it had increased capacity to 50,000 tests per day. This was the highest volume of any of the laboratories which government had contracted with to provide testing services, but still below the 60,000 tests per day contracted for. Throughout this period there were very few days on which the capacity Randox provided was fully utilised by the Department. Randox met its total contracted number of tests on 25 September 2020 (paragraphs 2.15, 2.16 and 2.18)."⁷

Loan equipment

Your letter makes observations about the testing equipment loans arranged by government after Randox requested ministerial help to access the equipment and claims that the Committee's Report implies that Randox was unprepared and unduly dependent on loaned equipment and may have misrepresented its capacity in contractual negotiations.

The Committee's Report does not say that Randox was unprepared and unduly dependent on loaned equipment. The Report's discussion of the equipment loans explains the help that Randox asked for, including when help was requested. It notes that the DHSC had said in its evidence that it was not surprised at the amount of help Randox needed from government.⁸

The Report also does not say that Randox may have misrepresented its capacity in contractual negotiations. The Report notes that the NAO's review of available contract documentation found that Randox had not specified that it would need government support to secure testing equipment required to fulfil its first contract and, further, that DHSC was not able to demonstrate how such help was factored into its negotiations with Randox on price⁹. These sentences are supported by the NAO

⁷ National Audit Office, *Investigation into the government's contracts with Randox Laboratories Ltd*, para 16

⁸ Public Accounts Committee, Seventeenth Report of Session 2022–23, *Government's contracts with Randox Laboratories Ltd*, HC 28, Wider procurement issues, para 17

⁹ Ibid



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report, which states: "The contract noted that government support for Randox to access third-party items might be needed but did not specify testing machines. No documentary evidence was provided to us by the Department that showed it had a clear understanding that this support would be needed when it considered the contract price and awarded the contract."¹⁰

This correspondence will be published alongside your letters of 25 and 26 July and 14 September on the Committee's website in due course so that both are publicly available on the inquiry page for the Report. I consider this matter closed.

Yours Sincerely

Dame Meg Hillier
Chair of the Committee of Public Accounts

¹⁰ National Audit Office, *Investigation into the government's contracts with Randox Laboratories Ltd*, para 15

From: HEATH, Sarah

Sent: 26 July 2022 17:58

Subject: RE: Our Client: Randox Laboratories Limited [SCHILLINGS-WORKSITEDB.FID214982]

Dear Mr Habib,

I have passed on your letter to Speaker's Counsel, however, it is important to stress that the freedom of speech in Parliament is a fundamental constitutional principle. The Committee has agreed the Report and reported it to the House and it cannot be altered or withdrawn.

Best wishes,

Sarah

Sarah Heath

Senior Clerk |

Pronouns: She/her/Ms



Public Accounts Committee

Schillings
12 Arthur Street
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EC4R 9AB
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Ref: MB/HH/EC/R0282/003.

26 July 2022

PAC Report - Government contracts with Randox Laboratories Limited

Dear Sir or Madam,

Thank you for your letter of 25th July.

We have considered the points which you have made. The Committee will be issuing an amended Press Notice today.

We do not accept that the Report or the Press Notices are in any way defamatory or inaccurate. We would remind you of the effect of Parliamentary Privilege in this matter.

In addition, we would remind you that the Committee issued a call for evidence in relation to this inquiry on 26th April 2022. Your client was clearly aware that the inquiry was taking place, as your client's representative at Woburn Partners contacted the Committee office in June to request details of publication. Your client was informed, through that correspondence, that an embargoed copy would be provided 48 hours in advance and did not request further time. Your client has clearly not been "ambushed" in this matter but has chosen not to engage in the inquiry.

If your client wishes to send a written response to the Committee after publication of the Report, the Committee will consider this, with a view to publishing further material if it considers this to be appropriate. The provision of an embargoed press notice also gives your client the opportunity to ensure any public comment they may wish to make is available at the time the Committee's Report is published.

Yours Sincerely

Sarah Heath
Clerk of the Committee of Public Accounts