



Cabinet Office

Departmental Minute:

Indemnities to be Granted to Designers and Manufacturers in the Rapidly Manufactured Ventilator System Project

Presented to Parliament by the Chancellor of the Duchy of Lancaster
and Minister for the Cabinet Office by Command of Her Majesty

June 2020

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Cabinet Office: Departmental Minute

Indemnities to be Granted to Designers and Manufacturers in the Rapidly Manufactured Ventilator System Project

The House was previously presented with a Departmental Minute providing notification of indemnities granted to designers and manufacturers of Rapidly Manufactured Ventilator Systems (RMVSs) as part of the Ventilator Challenge UK Programme.

The Cabinet Office intends to enter into a number of arrangements with both designers and manufacturers to ensure commercial matters are finalised prior to paying final accounts and assignment of component title and intellectual property rights where appropriate. The contents of these letters are still under negotiation in the majority of cases.

Cabinet Office now intends to enter into two letters as part of the BlueSky consortium activities which will provide indemnities similar to those previously notified to Formula One Management and the 6 Formula One teams who acted as the BlueSky ventilator designers, and to Olympus KeyMed who acted as an agent in the purchase of components for the BlueSky ventilator.

The precise commercial terms which have been negotiated for each supplier are, and will remain, commercially confidential. While it is difficult to estimate the potential liability exposure, it could exceed £300,000. For this reason, I am informing Parliament of these arrangements.

The Formula One Management indemnities cover potential infringements of third-party IP rights and product liability. Potential infringements could arise through the design and manufacture of the new RMVS ventilator designs where, for example, the design encroaches on any pre-existing patents, copyright and design rights and also modifications of existing designs, or any claims arising from product liability, such as death/personal injury to a patient, patient loss of earnings and legal costs. These indemnities are uncapped, however, the risk of claims arising under the indemnities is low as Cabinet Office do not plan to manufacture any ventilators using these designs.

The Olympus KeyMed indemnities arise by virtue of an agency relationship under which there is an implied indemnity for liabilities within the scope of the agency. With Olympus KeyMed, Cabinet Office is likely to have taken on the same level of liability if it had purchased these components from the manufacturers directly. Olympus KeyMed purchased components from suppliers who delivered those components directly to Cabinet Office. By virtue of the agency and terms of the letter, Cabinet Office is likely to be in the same position as if it had bought the components direct from Olympus' suppliers and to the extent Cabinet Office retains recourse against Olympus for negligence or other default, is in a better position.

The Treasury have approved these liabilities. Authorities for any expenditure required under the liability will be sought through the normal Supply procedure. If any

Member of Parliament has concerns, he/she may write to me and I will be happy to examine their concerns and provide a response.

**Michael Gove,
Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office
June 2020**