



## THE UK COVID-19 INQUIRY

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### TRADES UNION CONGRESS: SUBMISSIONS IN ADVANCE OF THE PRELIMINARY HEARING IN MODULE 2B

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#### Introduction

1. These brief submissions are made by the Trades Union Congress (“TUC”) in advance of the first preliminary hearing in module 2B, which will take place on 1<sup>st</sup> November 2022. The TUC is grateful to be designated a core participant in this important module, concerning the Welsh Government’s core political and administrative decision-making in relation to the Covid-19 pandemic between early January 2020 and May 2022, when the then remaining Covid-19 restrictions were lifted in Wales.
2. The TUC seeks to assist the Inquiry with its experience and expertise. The TUC brings together 5.5 million working people who make up its 48 member unions, from all parts of the UK. Each of the 48 member unions is listed as an annex to these submissions and, as the list makes clear, they span a wide range of industries profoundly affected by the Covid-19 pandemic, including many front-line roles.
3. Part of the TUC is the Wales TUC (“WTUC”) representing affiliated membership in Wales. The WTUC represents around 400,000 workers in Wales through its affiliated unions. The WTUC exists to improve the economic and social conditions of workers in Wales, regardless of whether or not they are currently in employment. The WTUC is the voice of Wales at work.
4. The TUC is also a core participant in module 1 of the Inquiry, and so, in written and oral submissions for the first preliminary hearing for module 1 on 4<sup>th</sup> October 2022, the TUC made a number of submissions which had a relevance beyond module 1.

Some of the issues raised by the TUC in module 1 were subsequently addressed in the Chair's ruling of 17<sup>th</sup> October 2022, and they are not repeated here.

5. In addition, the TUC is a core participant in modules 2, 2A and 2c of the Inquiry, and is making some overall observations regarding the interaction and inter-relationship between these sub-modules when the Inquiry is considering module 2, the UK-wide module. Those submissions are also not repeated here.
6. These submissions do address, briefly, the issues of (a) the scope of Module 2B, and (b) the Rule 9 requests for this module. The Chair will also be aware that we have raised the question of whether further closing submissions in module 2, regarding UK-wide issues, should be permitted to be made after modules 2A. 2B and 2C have concluded, and we return to that below, at point (c) of these submissions.

**(a) Scope**

7. First, the Inquiry is urged, at the earliest possible stage, to provide further information as to the scope of further modules.
8. At present, the Inquiry has given broad indications of the scope of modules 1, 2, 2A-C, and 3. The Inquiry has also indicated that there will be a number of further modules addressing 'system' and 'impact' issues across the UK. It is apparent that there could be very significant overlap between the issues to be considered in module 2B and those subsequent modules. For example, consideration in module 2B of the reasonableness and timeliness of non-pharmaceutical interventions ("NPIs"), and public health communications, may have very significant relevance to, and be informed by, the evidence in subsequent modules on topics such as "*the care sector*", "*the education and business sectors*", "*children and young persons*" and "*public services and on other public sectors*."
9. Some important considerations arise. For example, it may be that module 2B does need to hear some evidence on those topics earmarked for subsequent modules as they are highly relevant to the issues being considered in module 2B. Alternatively, it may

be that areas of investigation that *could* fall within module 2B, are to be investigated in the later modules.

10. Those are matters on which core participants should have opportunity to address the Inquiry at an early stage. However, it is very difficult to do so in a meaningful way, without any indication as to subsequent modules beyond the broadest of headings.
11. It is recognised that the Inquiry is working at an immense pace, and its own thinking as to the division of topics between modules will be developing and will continue to do so. It will inevitably be an iterative process. However, it is far better for the Inquiry to reveal its current plans for subsequent modules so as to put core participants in an informed position. Core participants should, for the benefit of the Inquiry, be more than passive recipients of updates given by the Inquiry team.
12. Second, the TUC indicates that its own focus for the purposes of module 2B will be issue 2 (as it relates to guidance and advice to health and social care providers), issue 3 (Wales-wide NPIs) and issue 5 (public health communications in Wales).
13. The TUC makes the following submissions at this stage as to the scope of this module:
  - (a) The education sector is of significant relevance to the examination of decision making around NPIs. That is both because education was significantly affected by NPIs, but also because education settings could be vectors for community transmission. The relationship between school attendance, for example, and community transmission, is an important one. Thus, when the Inquiry examines *“the development of the approach to NPIs in light of the understanding of their impact on transmission, infection and death”* must inevitably include consideration of educational settings. Some clarity is needed as to how this issue will be examined across module 2B, and as yet undefined further modules.
  - (b) The use and effectiveness (or otherwise) of NPIs played out in significant part in workplaces across the UK. Community transmission and significant loss of life occurred in sectors such as the transport sector, the communications sector, the manufacturing sector (in particular, it appears, the food processing and textiles

industry), the construction sector and the retail sector. In examining *“the development of the approach to NPIs in light of the understanding of their impact on transmission”*, it will be important to understand the effectiveness of NPIs in these sectors and how NPIs were being applied in practice. The Wales TUC itself was asked for its views in respect of the development of workplace safety standards and was regularly consulted by the Welsh Government on the introduction and removal of NPIs. There was also the establishment and use of the Shadow Social Partnership Council (*“SSPC”*, of which Wales TUC was a member) as an advisory body for Wales Government in relation to the implementation and impact of NPIs. This group was chaired by the First Minister and met weekly, and subsequently fortnightly, during much of the pandemic. The ‘Black, Asian and Minority Ethnic COVID-19 Socio-economic Sub Group’ (of which Wales TUC was also a member) advised the Wales Government on the impact that the pandemic was having on ethnic minority workers, especially in health and social care. The use of these partnerships (and similar), and consultations with bodies such as the Wales TUC, should form part of the scope of the module.

- (c) In relation to public health communications, the Inquiry will need to consider what guidance was given in respect of NPIs in workplaces. The advice of Wales TUC was sought from the Welsh Government on communications, including statutory guidance, both pre- and post-publication.
- (d) Both in submissions on the terms of reference, and for module 1, the TUC has emphasised the importance of the Inquiry examining the mechanisms in place for ensuring safety in workplaces and how, in practice, NPIs were implemented and enforced. That requires an examination of the role of the Health and Safety Executive (*“HSE”*), other regulators such as the ORR, and also local authorities. Further, Wales TUC’s experience was that there were often significant gaps between what trade unions reported about compliance of employers with regulations, compared to employer organisations. This arose in part due to a lack of systematic intelligence-gathering. Presently, the TUC is unclear as to in which module these issues are going to be examined.

**(b) Rule 9 requests**

14. The TUC is grateful for the update as to the recipients thus far of Rule 9 requests for the purposes of module 2B. As indicated by Counsel to the Inquiry, a Rule 9 request has been made of the Wales TUC.
15. Rule 9 requests should also be made of those professional bodies that played a significant role in cascading and adapting national public health communications into workplaces. That should include the organisations described above such as the CLC, the RICF, the HSE and the ORR. The issue of to whom Rule 9s are addressed is being given urgent consideration and the TUC envisages writing to the Inquiry as a matter of urgency with a list, with explanatory detail, of those professional and regulatory bodies to whom a Rule 9 request should be addressed.

In addition, the TUC notes that there are certain entities which have CP status in one of the devolved modules, but their equivalents do not. For example, the Children's Commissioner for Wales is a CP in module 2B, but her equivalents in England and Wales and Northern Ireland are not CPs; and in module 2C, the Commissioner for Older People for Northern Ireland is a CP, whereas the Older People's Commissioner for Wales is not a CP in module 2B. Whilst, of course, whether or not to apply for CP status is a matter for individuals and organisations, and there is no difficulty with this, it does seem sensible to consider at an early stage whether to make Rule 9 requests of equivalent entities in other jurisdictions in order to maximise the opportunity for comparing and contrasting differing approaches across the UK, and indeed considering how such office holders interacted with each other during the pandemic.

**(c) Closing submissions**

16. Whilst it is important to have distinct modules for the UK (and England), Wales, Scotland and Ireland, it will also be useful to have some opportunity to take a broader view of the evidence gathered in and heard in each of the modules, and to take a coherent view of the findings and lessons learned across the modules. The Inquiry is



invited to set aside a short (we suggest two day) hearing in 2024 for the purpose of hearing submissions reflecting on the four modules and drawing strands together.

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**SAM JACOBS**

Doughty Street Chambers

27<sup>th</sup> October 2022

## THE UK COVID-19 INQUIRY: MODULE 2

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### ANNEX

#### THE TUC UNIONS

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- Accord – Lloyds Banking Group, TSB and other financial services
- Advance - Santander and Santander businesses in the UK
- Aegis - Finance sector staff at Aegon UK, Atos UK, Skipton Building Society, Yorkshire Building Society
- AEP – Educational psychologists and assistant educational psychologists in public and private sector
- AFA-CWA – Mobile civil aviation workers (flight attendants/cabin crew)
- Artists’ Union England – Freelance visual artists, applied arts, sound and performance
- ASLEF – Railways – drivers, operational supervisors and staff
- BALPA – Airline pilots; commercial helicopter pilots; and technical rear crew
- BDA – Dieticians in the public and private sector
- BFAWU – Workers in food industries
- BOSTU – Orthoptists
- Community – General union covering a range of sectors including steel and other metals, third sector and logistics
- CSP – Chartered physiotherapists, physiotherapy students and support workers



- CWU – BT, O2, Post Office, Royal Mail Group and other telecoms companies
- EIS – Teachers, lecturers, associated educational personnel in Scotland
- Equity – Professional performers and creative practitioners
- FBU – Fire and rescue services
- FDA – Senior staff in civil service, public bodies and NHS
- GMB – General union covering a range of sectors, including social care, manufacturing, energy and public services
- HCSA – The hospital doctors’ union
- MU – Musicians including live and recording artists, composers, teachers and writers
- NAHT – Head teachers, deputies, assistant head teachers and school leaders across sectors
- NAPO – Probation and family court staff
- NARS – Racing staff employed by licensed racehorse trainers
- NASUWT – Teachers and head teachers in all sectors from early years to FE across the UK
- Nautilus International – Merchant navy and all related areas
- NEU – Teachers, headteachers, lecturers and support staff in all education sectors
- NGSU – All staff at the Nationwide Building Society
- NHBSCA – All staff at the National House Building Council
- NSEAD - Art, craft and design educators across all phases and sectors
- NUJ – Journalists, copywriters, designers, presenters, producers and website content providers





- NUM – Coal mining and associated undertakings
- PCS – Government departments and agencies, public bodies, private sector IT and other services
- PFA – Professional football
- POA – Staff in penal or secure establishments or special hospitals
- Prospect – General union covering a range of sectors, including creative industries, defence, scientific and professional staff and energy
- RCM – Practising midwives and maternity support workers in the UK
- RCP - NHS, independent practice and private chiropodists and podiatrists
- RMT – Railways, underground, metro, bus, road transport, taxi, maritime and offshore
- SoR – Radiographers and related staff in NHS
- TSSA – Administrative, clerical, professional and technical employees of railways, buses, London Underground, travel trade
- UCAC – Teachers, headteachers, education advisors and lecturers across all sectors in Wales
- UCU – Academic and related staff in HE, FE, land-based, adult and prison education.
- UNISON – General union covering a range of sectors, including local government, health and social care, utilities, energy, education and voluntary sector
- UNITE – General union covering a range of sectors, including manufacturing, aerospace, aviation, transport, voluntary and public services
- URTU – Drivers, ancillary and warehousing workers in the logistics and food sectors
- USDAW – Call centres, catering, distribution, food processing and manufacturing, retail and warehouses



- WGGB - Writers working in TV, radio, film, books, theatre, comedy, video games and multimedia