

## THE UK COVID-19 INQUIRY

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### TRADES UNION CONGRESS: WRITTEN OPENING FOR MODULE 2

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#### INTRODUCTION

1. This is the opening statement of the Trades Union Congress, “the TUC”, in Module 2 of the UK Covid-19 Inquiry. The TUC brings together 5.5 million working people who make up its 48 member unions, from all parts of the UK, and who span a wide range of sectors profoundly affected by the Covid-19 pandemic. The sectors represented by the TUC member unions include workers in the whole range of health and social care services, construction and manufacturing, transport, education, food industries, retail, communications workers, fire and rescue services, the civil service, and the arts.
2. As a core participant in Module 2 of the Inquiry, the TUC is working in partnership with the Wales TUC (“**WTUC**”), the Scottish TUC (“**STUC**”), and the Northern Ireland Committee of the Irish Congress of Trade Unions (“**NIC-ICTU**”). The WTUC is an integral part of the TUC but is autonomous in some policy areas. The STUC is a separate organisation to the TUC, representing over 540,000 trade union members in Scotland from 42 affiliated unions and 20 trade union councils. The NIC-ICTU is also a separate organisation and is responsible within the ICTU for all issues affecting nearly 250,000 members. ICTU has a membership of 43 unions. The TUC, STUC and NIC-ICTU frequently work in partnership, and the relationship is formalised through a body known as the Council of the Isles.
3. The TUC seeks in this Inquiry to give voice to the experience during the pandemic of those in work, to highlight the uneven impact of the pandemic in the workplace on protected and vulnerable groups, and to emphasise the need to learn lessons so as to

ensure that those required in a pandemic to continue attending their places of work are appropriately protected.

4. This opening statement summarises some of the key concerns of the TUC and its affiliated unions in this module, and, insofar as relevant to those key concerns, to point to some of the emerging themes of the evidence. It addresses, in particular:

- (a) The **Truth and Candour** (section A) demanded of those who give evidence to a public inquiry, and the paucity of frank accounts in the witness statements provided by key decision-makers.
- (b) The **Loss and Sacrifice in the Workplace** (section B) suffered during the pandemic, which we have addressed before, but acknowledge again at the start of this module.
- (c) The **Avoidable Loss** (section C) suffered in the pandemic, focusing particularly on the picture of chaotic decision making following the emergence from the first lockdown in the summer of 2020 and towards the third lockdown in January 2021.
- (d) The effect and consequences of decision-making focused on the **Economics of Work, but not its Safety** (section D), seen particularly with decision-making around sick-pay and self-isolation.
- (e) The decision-making around **Schools and Community Transmission** (section E).

#### A. TRUTH AND CANDOUR

5. Any public inquiry demands candour. In an inquiry such as this, examining the circumstances of the devastating consequences of the Covid-19 pandemic, the demand for candour is a particularly powerful one. True candour is more than refraining from misleading; it is being forthcoming and frank on the matters that we all understand are of interest to this Inquiry. In Module 2, we are struck that too many of the statements of key decision-makers comprise lengthy but utterly anodyne statements which recite the chronology of decisions and formal decision-making documents, no doubt faithfully, but which quite conspicuously refrain from any sort of frank and

candid account of the circumstances of key decisions. That leaves this Inquiry with the onerous task of extracting the ‘warts and all’ for itself.

6. In a module that includes consideration of the extent to which breaches of the rules by UK Ministers, officials and advisors damaged compliance with the rules, it is surprising that in Boris Johnson’s statement he says *“On 24 May 2020, I gave a press conference where I addressed the allegations relating to Dominic Cummings’ trip to Durham”* and then – that is it – he moves on as if it was a trivial matter. No reflections, no comment. Nothing misleading, but nothing candid. The examples of this sort of approach are innumerable across a number of key witness statements.
7. Everyone knows, inside and outside of this Inquiry, that there was an element of turmoil in the decision-making processes in government. Yet, the statements of Boris Johnson, and others, seek to persuade us that there has been a wholly unique reversal of the swan analogy: what the public has seen is the furious flapping of flippers under water, but what the politicians can now reveal is the serene gliding through the pandemic that was happening behind closed doors. It will persuade no one. It demands from this Inquiry the same rigour in questioning as seen in Module 1. We believe that questioning by core participants (as in Module 1) will contribute to that process. The Inquiry will need to consider, very carefully, the extent to which the accounts given to this Inquiry, really match with the contemporaneous documents, and with the evidence of those who appear to have given more open and frank accounts.

## **B. ACKNOWLEDGING LOSS IN THE WORKPLACE**

8. Over 15,000 people of working age have died of Covid-19. ONS statistics show that from March 2020 to the end of that first year of the pandemic, there were 8,000 deaths of working age people involving the coronavirus. The death rate varied significantly as between occupations. It was those in jobs with regular exposure to Covid-19, and those working in close proximity to others, that had higher death rates than compared with the general working population. Those occupations also intersect with other factors: of ethnicity, low pay and poverty, insecure work, poor housing, and higher

rates of pre-existing health conditions. The three occupational groups with the highest rates of death involving Covid-19 were: (a) elementary occupations; (b) caring, leisure and other service occupations; and (c) and process, plant and machine operatives. For men, the death rate for those in elementary occupations was over three times higher than those in professional occupations.

9. Many who contracted Covid-19 in places of work suffered (or continue to suffer) the prolonged and debilitating effects of Long Covid. In March of this year, the ONS reported that an estimated 1.9million people living in private households were experiencing self-reported Long Covid, 1.3 million of whom had contracted the virus over a year previously. The most common reported symptoms were fatigue, difficulty concentrating, muscle ache and shortness of breath. The prevalence of self-reported Long Covid was greatest in the working age population (aged 35 to 69), and those particularly affected included people living in more deprived areas and those working in social care. It is a devastating consequence of Covid-19 that continues.
10. The pandemic has been a time of great loss and sacrifice. Quite rightly, those in the NHS who confronted the horrors of the pandemic from our hospitals were celebrated. The shocking nature of those experiences should not be forgotten. Social care workers were also at the frontline. So many others played a role in keeping the country going during the darkest days of the pandemic: those who kept the supermarket shelves stacked, those who cleaned hospitals and public spaces, those who kept transport going so key workers could get to work, teachers who kept the schools open for vulnerable children and children of key workers, those who delivered parcels to our doors, and many others. Others were out of sight but no less important, including those who worked in close proximity in manufacturing and food processing plants.

### **C. AVOIDABLE LOSS**

11. The UK fared worse than many comparator countries on measures such as number of deaths as a proportion of the population. Drawing precise comparison can be difficult and contributory factors may be multi-factorial. Ultimately, however, comparisons are not necessary to recognise that there were very significant flaws in the central

government response to the pandemic. It is not just loss that sets the context for this Inquiry; it is avoidable loss.

12. During the pandemic, the TUC did not campaign on the timing of lockdowns, recognising that its expertise was not in the assessment of scientific data. However, it emphasised that decisions needed to take account of workers' safety, and economic wellbeing. The members of the TUC's affiliated unions would expect decisions on such matters to be made responsibly, pursuing a coherent plan, and appropriately guided by the science. As is apparent in the evidence obtained by the Inquiry, the decision making appears at times to have fallen short of that expectation.

### **Timing of the first lockdown**

13. The first lockdown was an extraordinary step to take, and it felt extraordinary at the time. But it is clear that modelling foreseeing the likely increase in the death rate was available, certainly by late February 2020. It appears that No.10 did not recognise the severity of what was happening until the beginning of March 2020. There was a lack of urgency, and overconfidence in a pandemic plan that was for an influenza pandemic. Questions therefore arise as to the timing of the first lockdown. A significant part of the rationale for the timing of the first lockdown was based on a behavioural theory that an earlier lockdown would see less compliance, albeit the Behavioural Insights Team ("BIT") makes clear that it was not a view that *it* presented. The rationale appears questionable, not least as a later lockdown would likely need to be a longer lockdown.

### **Government dysfunction on competing imperatives**

14. An emerging theme of the evidence is that as the country came out of the first lockdown, Westminster decision-making became increasingly confused and chaotic, and with disastrous consequences. The underlying context was the Westminster Government never actually grappling with and arriving at a coherent plan to address two imperatives.
15. One imperative was to limit the death toll of the pandemic in the face of concerns as to the R rate rising during the following winter. Even at the time of the first lockdown,

it was well foreseen (certainly in parts of government) that the following autumn and winter would be hugely challenging. It was known that the ‘way out’ of the pandemic was most likely a vaccine, but there was no realistic chance of a vaccine that year. It was also known that the first lockdown would suppress rather than eradicate the virus, and that once the nation reopened the R rate would likely rise. There was an imperative to confront those realities, and plan (even if against hope) for the further precautionary measures that would likely be required. Another imperative was to restart the economy and to limit further restrictions on individual liberty as much as possible. That, absolutely, was an important imperative, not least given the adverse consequences of a national lockdown, however necessary they may be.

16. In very broad terms, the former, precautionary imperative was the focus of the Department of Health and Social Care (“DHSC”), supported by the warnings given by SAGE as to the likely path of the pandemic. No. 10 and the Treasury were particularly focused on the latter. They were often treated as opposing imperatives whereas, on a true analysis, they were not opposing imperatives at all: losing control of the R rate results, in the longer term, in more restrictions and disruptive consequences for the economy. As conveyed over WhatsApp by Matt Hancock, skyrocketing unemployment would still not be *“as high as if we have to do a full f---ing lockdown thanks to action being blocked now”*.
17. The emerging evidence indicates that there was no adequate plan, or simply the inability in No.10, to address these imperatives in a coherent way. The decision-making across government which *should* have addressed these imperatives was dysfunctional. It set in train a pattern of decision-making with two characteristics: the first was implementing policies which pursued the latter imperative without properly considering how it fitted with the former. The second characteristic was the adherence to policies pursuing the goal of less restriction/more growth until the weight of evidence and calls to the contrary simply could not be ignored.

### **The Eat Out to Help Out Scheme (“EOTHO”)**

18. The process of decision-making concerning EOTHO was an early example of the dysfunction in action. Implemented in August 2020, its aim was to support the economy and jobs, particularly in the hospitality sector. Those were laudable aims, but against the context of a precarious R rate, it required careful consideration of the consequences of greater mixing and, more broadly, the public messaging indicating that being out and socialising was now a matter of the national good.
19. However, according to Matt Hancock, he and the DHSC were not even aware of the proposal until it was announced. Further, he says he disagreed with it, and only supported it publicly to maintain government unanimity. It does not appear that SAGE was consulted. There is no evidence of the scheme being the subject of careful and appropriately broad consultation across No.10, the Treasury, the DHSC, nor informed by SAGE advice.
20. The close to £500million spent on the scheme funded almost 100 million covers. A paper by the University of Warwick estimated that EOTHO was responsible for 8 to 17 percent of all new local infection clusters during August and into early September 2020 (INQ000192072\_0003). The short-term economic benefit of EOTHO, and support to the hospitality industry, may have contributed to longer term disadvantages (such as the long, third lockdown).

### **Circuit breakers, the tiering system and the second lockdown**

21. By September 2020, the R rate was rising significantly. The mood is captured by a Matt Hancock WhatsApp of 17<sup>th</sup> September 2020 stating *“We have a full blown explosion going on. Doubling time 7-10 days. Not sure if rule of six is going to be enough”*. Dominic Cummings responded with a simple *“yup”*. Three days after that exchange, on 20<sup>th</sup> September 2020, Boris Johnson held a meeting with anti-lockdown proponents to which Matt Hancock was not invited. Matt Hancock describes being *“astonished”* that No.10 could organise such a meeting without inviting the Health Secretary. It is a striking example of the dysfunction.



22. The favoured alternative to a circuit breaker was the tiering system. However, Matt Hancock describes being advised that the tier 3 (highest level) measures, as agreed, would not be sufficient to suppress transmission and to reduce pressure on the NHS. Both the Chief Scientific Advisor (“CSA”) and Chief Medical Officer (“CMO”) advised that the tier 3 measures were unlikely to bring R below 1. The tiering system was announced on 12<sup>th</sup> October 2020. Matt Hancock describes being *“in despair that we had announced a policy that we knew would not work.”* It is a measure of the inadequacies in the decision-making processes that a scheme was implemented which did not meet the advice of the CSA, CMO, nor carry any consensus in government that it had any realistic prospect of working.
23. There appears to be near unanimity to the effect that the tiering system was a failure. Boris Johnson says it was failure in hindsight, but they were justified in trying it. The Inquiry may consider that they were not justified in trying it in circumstances that the department that devised the scheme – DHSC – fully appreciated that the scheme as implemented would not work.

### **The third lockdown**

24. Soaring case numbers and huge pressure on the NHS towards the end of December 2020 saw the country go into a lengthy lockdown from 4<sup>th</sup> January 2020. By that stage, the number of daily deaths from Covid-19 were as high as they had been throughout the pandemic. It was the consequence of decision making that flip-flopped throughout Autumn 2020 between resisting lockdowns at all costs and accepting their inevitability, without any coherent plan to steer the course. It was led by the decision-making of a Prime Minister whose decision-making style was summarised in a message sent by Cabinet Secretary Simon Case: *“a classic of the Johnson era – go fast, no go slower, listen to me, no agree it with Rishi...!”*.

### **D. THE ECONOMICS OF WORK, BUT NOT ITS SAFETY**

25. The UK government took a bold approach to supporting jobs and the economy, but failed to show the same endeavour to support safety in the workplace, particularly in



respect of those in lower income jobs and insecure work. Some of the seeds of poor safety in the workplace were sown in the shortcomings in preparedness considered in module 1 (such as in relation to PPE), but, following the onset of the pandemic, there was a failure to have any careful focus on and real commitment to promoting safety in the workplace for those who could not work from home. It is an area of decision-making in which there were significant lost opportunities to suppress the R rate more effectively, and also to mitigate the disparate impacts of the pandemic.

### **The Health and Safety Executive (“HSE”)**

26. One contextual point is a pre-existing lack of effective mechanisms for regulation of health and safety in workplaces. Austerity, combined with a fashion established by the coalition government for dismissing health and safety as “red tape”, almost eradicated any meaningful regulator able to enforce health and safety in workplaces. The primary regulator for health and safety in places of work is the HSE. In 2009/10, the HSE received £231million in government funding. Ten years later, as the pandemic hit, its annual funding from government had reduced to £123million. Over that same period, the number of prosecutions in health and safety breaches had fallen by 70percent. On 11<sup>th</sup> May 2020, as many had already returned to work, Boris Johnson stated that *“we are going to insist that business across this country look after their workers and are covid-secure and covid-compliant. The Health and Safety Executive will be enforcing that, and we will have spot inspections to make sure that business are keeping their employees safe.”* But that was a vacuous attempt at reassurance in circumstances that had left the HSE so depleted in its resources. By early June 2020 the HSE had already received over 6,000 additional concerns from workers about social distancing and other pandemic related matters. Those concerns resulted in the sum total of 47 physical inspections of workplaces, and one prohibition notice. The Health and Safety Executive Northern Ireland faced – and indeed continues to face – similar difficulties.

### **Sick-pay and self-isolation**

27. Self-isolation was a central part of the response to the pandemic, but its effectiveness was hampered by the inadequacies in the financial support available to those on low income. Financial support for self-isolation was important for the effectiveness

generally of self-isolation and seeking to depress the R rate. It had a particular relevance to the unequal impacts of the pandemic given the intersections between low income and limited access to sick pay, with insecure work, health inequalities, and a number of protected and vulnerable groups.

28. The problem was an obvious one: 300 people working in (say) a food processing factory would be at high risk of transmission as they continued to attend work, and to work in close proximity. The workers would generally be on a low income, as well as being more likely to suffer the disadvantages of structural health inequalities. For many, self-isolation would mean acute financial hardship. The risk of unwell workers continuing to attend work, and for mass outbreaks, was significant. The problem was replicated across a variety of sectors.
29. The effectiveness of Statutory Sick Pay (“SSP”) as a mechanism of support for self-isolation was limited by both its availability and its level. Close to 2million contracted employees earning below the ‘lower earnings limit’ (then £120) were ineligible, particularly affecting those in insecure work. In addition to the availability of SSP, its level was far too low to adequately support self-isolation. SSP was available at £94.25 a week which meant that those who were eligible for SSP whilst self-isolating would, in any event, see a significant drop in income. On 19<sup>th</sup> March 2020 Matt Hancock appeared on BBC1’s Question Time and, in response to a question from Frances O’Grady (then General Secretary of the TUC), admitted that he could not live on £94.25 per week.
30. The TUC frequently raised the issue. For example, on 3<sup>rd</sup> March 2020 the TUC called on the Westminster government to respond to the pandemic by providing emergency support for the millions of workers ineligible for SSP. At the same time, it published a report, *Sick pay for all – How the Corona Virus has shown we need urgent form of the sick pay system* [INQ000119057], which pointed to the fact that the earnings threshold disproportionately impacted women, those in insecure work, and young and older workers, who were more likely to be without sick pay. It pointed to the rate of SSP as being amongst the lowest compared with European counterparts, and urging workers

required to self-isolate to be treated as suspended from work such that they could receive full pay. The range of concerns brought forward by a number of affiliated TUC unions is set out in Kate Bell's witness statement to this module (paragraphs 154-155). In February 2021 the TUC published a report, *Sick pay that works*, that called for the lower earnings threshold to be abolished and increasing its rate to £330 a week, the equivalent of a week's pay at the real living wage. It warned that *"the UK's low level of sick pay means that during this pandemic many affected workers have been forced to choose between paying bills and isolating at home."* In June 2021 the TUC published an analysis indicating that a third of key workers said they did not get any sick pay, and, in December 2021, that 647,000 festive workers would not be eligible. The TUC met with the Treasury on several occasions to ensure it had the relevant evidence.

31. There was certainly an awareness of the issue within Westminster. A message to Matt Hancock on 2<sup>nd</sup> March 2020 referred to the *"emerging issue ... around sick pay and being able to give comfort to the low paid who may need to self-isolate. ... It's to the [Prime Minister's] point of a cleaner potentially turning up in a care home even if unwell because they're in desperate need of money"* (INQ000093178\_0004). In July 2020 the BIT brought the attention of the government to evidence that infection rates in care homes were affected by whether staff were financially supported when sick. Specifically, it was found that care homes that paid sick leave immediately when someone had to self-isolate had Covid-19 case levels around 13% lower than care homes that did not. On 26<sup>th</sup> October 2020, the Conservative MP, George Freeman, wrote to Matt Hancock in response to 150 of 300 workers tested at Cranswick Country Foods plant in Norfolk having tested positive. He stated: *"As we saw at Banham Poultry, the current Statutory Sick Pay doesn't provide enough to live on and without extra we will see again what happened at Banham, where staff with no incomes were forced to obtain employment in other food processing plants in order to make ends meet – thus spreading the virus. Probably to Cranswick, and Bernard Matthews which also has an outbreak"* (INQ000094803\_0002).
32. The response to the issue was meagre. On 11<sup>th</sup> March 2020 the Chancellor removed the three-day waiting period for sick pay in cases of coronavirus, but that did not confront the problem of the level of SSP, nor the millions who had no access to it. The

Chancellor suggested that those without sick pay could turn to the benefit system instead, but that was wholly unrealistic given the five-week wait for the main benefit, and the low rate of Employment and Support Allowance at £73.10 per week.

33. On 28<sup>th</sup> July 2020, David Halpern (BIT) wrote by email that his *“gut feeling is that [the Treasury] will be hard to move to statutory sick pay change, but could be persuaded to go for an Australian style hardship fund administered by local authorities.”* That instinct proved correct. From 28<sup>th</sup> September 2020, some people in England became entitled to a £500 Test and Trace Support Payment where they were required to self-isolate, unable to work from home, and they or a partner received universal credit or working tax credit. £50million was given to local authorities to administer the scheme, with £25million allocated to the mandatory payments, £15million to discretionary payments, and £10million to the set up and administration of the scheme. In January 2021, £20million of extra funding was announced.
34. The allocated funds were far too low, and in February 2021 the TUC reported, having made freedom of information requests of local authorities, that 70% of applications were being rejected (INQ000119082). By May 2021 there had been virtually no improvement in the rejection rate, and only a fifth of surveyed workers had even heard of the scheme.
35. The Inquiry should probe the failure to take bolder action to support low-income workers to self-isolate. The case for doing so was obvious. The Treasury was prepared to be bold in saving jobs, spending £70billion on the Furlough Scheme, and £840million on encouraging people to use restaurants in August 2020 (EOTHO). In stark contrast, the £50million allocated to supporting self-isolation was, in truth, tokenistic, and devoid of any real commitment to addressing the issue. Further, whereas the Furlough Scheme was introduced in April 2020, the Test and Trace Support Payment Scheme was not introduced for another five months. We have not seen, in the evidence so far, any rationale for not doing more, and struggle to find any explanation other than an ideological aversion to greater entitlements to sick pay.

36. For all the insistence in various statements before the Inquiry as to the anxiety suffered by politicians in contemplating the unequal impacts of the pandemic, it did not translate into action: support for self-isolation was a practical, concrete, and entirely obvious way of supporting the effectiveness of self-isolation and, in particular, protecting a low income but high-risk part of the workforce that intersects with a number of protected characteristics and vulnerabilities. The failures in political decision making likely contributed to mass outbreaks in a range of workplaces, including the manufacturing and food packaging industries.

### **(Not) supporting care workers**

37. The Inquiry heard a lot in Module 1 as to the fragmented social care sector. The numbers vary, but it is a service spread across some 18,000 organisations. It is a system in which a substantial number of care workers will work (often in insecure work) in more than one care home. It became understood relatively early in the pandemic, given the potential for asymptomatic transmission of Covid-19, that movement of staff between care homes was a source of spread of the infection. Consideration was given in the winter of 2020/2021 to preventing the movement of staff between care homes. Matt Hancock describes pressing the need to ensure that funding was put in place to support the policy, specifically to pay care staff for foregone hours as a result of being limited to one setting. However, the Treasury was reticent to fund the scheme. The implementation of the plan was delayed and subsequently abandoned. It is indicative of the Treasury's lack of action when it comes to the more vulnerable parts of the workforce and led to a lost opportunity to support care home staff and reduce the transmission of the virus within care homes.

### **Sectoral guidance and liaison with unions**

38. For those not working from home, Covid-19 gave rise to fundamentally important issues of workplace safety, important not only to suppressing the R rate, but also to the preservation of life, protecting workers from illness including Long Covid, and mitigating the unequal impacts of the pandemic. The TUC considers that the decision-making by the UK government on matters relating to workplace safety suffered from

a lack of meaningful liaison with unions. In contrast to the experience in Wales and Scotland, at the outbreak of the pandemic there was virtually no machinery in place for regular dialogue or engagement between the UK government and the TUC or its member unions. As described in Kate Bell's witness statement for this module there was, at times, frequent engagement, but it was typified by being at the last moment, ad-hoc and haphazard. On a number of occasions the TUC called for the establishment of a taskforce chaired by a Senior Cabinet Minister and comprising unions, business and government agencies with the aim of bringing stakeholders together to co-ordinate support and ensure that measures are being effectively targeted, delivered and accessed by employers and workers in need.

39. The TUC frequently sought to engage with the UK government, particularly on issues of financial support to workers and business and the management of NPIs in the workplace across specific sectors and industries. On 3 April 2020 the TUC published a report, *'Protecting workers' safety in the coronavirus pandemic'* (INQ000119236). It reported the TUC w hearing of too many employers across a range of sectors that were failing to make the practical changes necessary to keep work as safe possible. Numerous reports had been received, primarily around inadequate PPE, inadequate hygiene or social distancing measures in the workplace, an absence of specific support for vulnerable workers, and being required to make non-essential journeys. Similar concerns continued to be experienced, and raised, across a range of sectors. Early in the pandemic, there was a distinct lack of governmental guidance on how social distancing was to operate in workplaces, including in food manufacturing, aviation, construction, transport and the waste sector, with some employers simply choosing not to apply social distancing. The result was unions having to fill the gap in national guidance by formulating its own operating procedures and guidance and briefing workers and union representatives accordingly.
40. On 27<sup>th</sup> April 2020, approaching the easing of the first lockdown and with the prospect of thousands of workplaces re-opening, the TUC published a report, *'Preparing for the return to work outside the home – A trade union approach'* (INQ000119244), which set out the TUC's initial thinking on how the mass return to workplaces could be managed.



Key features included the requirement on every employer to carry out a Covid-19 specific risk assessment and guidance around the provision of PPE. The Department for Business, Energy and Industrial Strategy (“BEIS”) engaged thereafter in a hastily arranged process of consultation. The resulting draft guidance was presented to the TUC on the morning of Sunday, 3rd May 2020, with a 12-hour deadline set for responses (INQ000119245). In a letter to Alok Sharma that day (INQ000119247), Frances O’Grady set out the TUC’s serious concerns about failings in the consultation process and the weakness of the guidance that resulted from it. The letter was accompanied by detailed proposals on ensuring a safe return to work (INQ000119248). Key concerns raised included the non-binding and voluntary approach taken to the expectations upon employers, ambiguity about the requirements in place for employers in relation to NPIs such as social distancing and hand sanitation, the lack of recommendations on provision of PPE, and the lack of guidance on the requirements to publish risk assessments, nor agree them with recognised unions. It also pointed to ambiguity in the protections for vulnerable groups.

41. That inadequate process of consultation, and resulting inadequate guidance, is but an indicative example. Recurrent patterns in government engagement with unions and response on workplace safety issues were:

- (a) Hastily convened and ad hoc consultation processes, often at very short notice, led mainly by BEIS but with some sector specific initiatives through relevant departments;
  - (b) The release of revised guidance with little or no consultation;
  - (c) Very little movement in response to issues raised by unions through consultation;
  - (d) Prioritisation of Public Health England or HSE guidance over consultation with unions and employers and ‘on the ground’ intelligence;
  - (e) Guidance for employers based on voluntary or limited steps for the implementation of NPIs and for the monitoring and enforcement of that guidance;
- and



(f) Lack of effective communication to the workforce and employers, including awareness of workplace rights.

42. These were lost opportunities for the UK government to take a lead on, and improve, access to PPE across a range of workplaces, the implementation of social distancing in workplaces, use of face coverings in workplaces, supporting self-isolation for those attending work, and the adherence of employers to obligations to produce individual and workplace risk assessments. These matters are all of significant and practical importance to effective pandemic response.

## **E. SCHOOLS AND COMMUNITY TRANSMISSION**

### **The relevance of education to Module 2**

43. A future module will focus on the many issues that arise in relation to education and the pandemic. The core relevance of education in this module is the role of school attendance in the community transmission of the virus, and the decisions made around how and when that role was suppressed. The former Secretary of State for Education, Sir Gavin Williamson, is not on the witness list, but given the significance of the education issues to module 1, it is important that he is called.

### **School attendance and community transmission**

44. School attendance is a significant factor in community transmission. On 17<sup>th</sup> December 2020, SAGE advised (INQ000075736) that the evidence, with “*high confidence*”, was consistent with transmission occurring amongst children when schools were open, particularly those of secondary school age. Multiple data sources were observed to indicate that the 2020 October half-term led to a reduction in transmission rates which picked up again when schools reopened.

45. Although reference is often made to ‘school closures’, it is important to recognise that schools never closed, and always remained open at least to vulnerable children and to Children of Critical Workers (“CCW”). One lesson from the pandemic is that the effectiveness of restrictions on school attendance in suppressing the virus will be influenced by its stringency, and, in particular, the numbers of pupils that continue to

attend. Not enough consideration was given to the number of children continuing to attend school during periods that attendance was restricted. In the first lockdown it was a comparatively small number of vulnerable children and CCW who continued to attend. The experience on the ground was that by the January 2021 lockdown the numbers of children actually attending had vastly increased, in part because of the expanding criteria for attendance. The 318,000 attending school on 23<sup>rd</sup> March 2020 (257,000 CCW and 61,000 vulnerable children) increased almost three-fold to 952,000 as of 11 January 2021 (793,000 CCW and 159,000 vulnerable children) (INQ000146054\_0101). Professor Hale notes that the impact on transmission of restrictions on school attendance in the second wave was small, but that was likely because it was, certainly in practice, a far less stringent restriction on attendance.

### **The mantra of keeping schools open**

46. As with general decision-making following the emergence of the first lock-down (described above), the underpinning flaw seems to have been an unbalanced pursuit of imperatives. In education, the imperative was to keep schools open, and close them only as a measure of last resort. In and of itself, it was a worthy imperative; everyone recognises the importance of keeping schools open. But, it became a doggedly held mantra of ‘schools must stay open’. It resulted in a pursuit of that objective, without NPIs adequate to control transmission, until it became impossible to continue. The consequence was confused, late and chaotic decision-making. It led to hiding from the science rather than being guided by it, until ignoring it was impossible.
47. It manifested, firstly, in a refusal when opening schools in September 2020 to also prepare a contingency plan for the likely event of restrictions on school attendance having to return. On 19<sup>th</sup> June 2020 it was announced that all school settings would return in September 2020. That aim had union support given the obvious importance of school attendance to young people, though unions also called for a much greater level of NPIs to reduce transmission. However, unions such as the NEU also urged the government to publish a contingency plan, so that the sector could also benefit from advanced planning for the scenario that the R rate shot upwards and school attendance could not remain unrestricted. That call for contingency planning was an

eminently sensible one; there was already concern that the R rate was precarious, and with various restrictions being lifted it could rise quickly. In September 2020, SAGE warned of a significant risk that higher education could amplify local and national transmission, and it was “*highly likely*” that there would be significant outbreaks associated with higher education (INQ000146054\_0071).

48. The government refused to do so. According to the Institute for Government (“IfG”), a No.10 source reported that a “*clear steer*” was received from the Prime Minister not to make contingency plans, the view being that “*if you prepare for these things not happening, then the outcome is that they are far more likely not to happen ... people will look for the easy way out and take it.*” The source reported that the Prime Minister’s “*default is to bluff. To talk up things to such an extent that they will happen through the force of his own personality. Which is a very powerful tool. But the virus doesn’t listen to those messages.*” The account fits with a note of a July 2020 meeting to the effect that the “*PM set out very clearly that nothing should be a barrier to full return in September, and that no one should get into the mentality of anything but full return.*” (INQ000075461\_0002). The IfG considers that “*the most unforgivable aspect of what happened is not just the failure to make contingency plans in the summer of 2020 but the refusal to do so – when it was already obvious that fresh school closures might well be needed, and that exams might have to be cancelled again*” (Schools and coronavirus, August 2021).

49. It manifested, secondly, in school attendance not being restricted at all during the second lockdown. To those unions familiar with the limited extent to which schools were realistically able to prevent transmission within schools, it was realised that the lockdown would be limited in effectiveness if school attendance remained unrestricted. Education unions called for schools attendance to be restricted, and had also called for a two week half-term circuit breaker. Unions consistently argued that the best way to minimise disruption to face-to-face education was to take steps to prevent the spread of the virus, and as at October 2020 it seemed abundantly clear that Government policy was going to lead to more, and lengthier, disruption in the long term (as came to pass).

50. In manifested, thirdly, in the chaotically late decision-making around restrictions on school attendance in December and January 2021. November and December 2020 saw clear warning signs about the R rate generally, and the position in schools, but the government was holding tight to the mantra of keeping schools open. On 9<sup>th</sup> December 2020 Stephen Hammond MP and Matt Hancock MP shared over WhatsApp that they *“wouldn’t want to say this on wider groups”* but secondary schools in London *“are a real problem right now”*, and an elongated holiday may be a way to *“keep the mantra of schools staying open”*.
51. The growing chasm between the reality of the R rate and transmission in schools, and the government’s intent on keeping schools open, was thrown into sharp relief by the dispute between government and local authorities, culminating in threats of legal action by the Department for Education (“DfE”) when local authorities and schools sought to respond to local circumstances. In December 2020 Greenwich decided to switch to remote learning in response to soaring Covid rates, but was ordered by the Secretary of State to open its school doors.
52. On 22<sup>nd</sup> December 2020, SAGE had already advised that *“it is highly unlikely that measures with stringency and adherence in line with the measures in England in November (i.e. with schools open) would be sufficient to maintain R below 1 in the presence of the new variant”* (INQ000075511). A meeting on 28<sup>th</sup> December 2020 attended by the Prime Minister and the Secretary of State for Education discussed various options, but it is not clear that delaying school attendance generally was seriously considered, notwithstanding that is precisely what happened a matter of days later (INQ000075504\_0001).
53. Ultimately, there was the farcical scenario of thousands of primary school children returning to school and mixing for a single day on 4<sup>th</sup> January 2021, before there was a U-turn announced that day, and a lockdown with school attendance being restricted. It was chaotic decision-making.
54. The chaos continued into matters that will no doubt be considered in Module 2, such as the further but extremely late cancellation of exams. The only real certainty for

schools was that, whatever the next decision was to be made by the Westminster government, the position would be vehemently maintained until it was reversed at the last minute.

55. Keeping schools open is fundamentally important, and will be again in any future pandemic. The aim in a future pandemic must be to enhance NPIs which enable schools to stay fully open as much as possible. However, restricting school attendance needs to be ‘on the table’, with mature and forward planning as to when and how it is used. The approach in response to Covid-19 was too much of decision making in denial and hopelessly late decision making, which led to the lengthy lockdown commencing in January 2021 and far worse impacts on education and children and young people.

#### **Other NPIs within schools**

56. A further area of importance is the use of NPIs other than restricted attendance within schools. Schools needed to remain open as much as possible, and that warranted priority and investment in ways of reducing transmission with NPIs that fell short of restricting attendance. However, opportunities to reduce transmission whilst attendance was unrestricted were lost.
57. On the return of unrestricted attendance in September 2020 the DfE relied on a *“PHE endorsed system of controls to reflect the latest scientific and public health advice”*. That, however, exposes what was felt by teachers, support staff and school leaders at the time, that ministers and those in government simply did not understand the realities and practicalities of schools well enough. It was ‘abracadabra policy making’ in action. It included managing students in ‘bubbles’, albeit that bubbles could be the size of a whole year group, and really meant very little in practice. Steps that might have made a difference, such as creating space by funding extra classrooms or use of other buildings, do not appear to have been explored. At that time, guidance on face coverings was equivocal, namely, that schools had the option to advise that face coverings should be worn in communal areas, and not classrooms. The reality, therefore, was a return to school with (a) bubbles of up to 100s of children, (b) social

distancing without any measures to provide the space to socially distance, (c) equivocal guidance on face coverings, and (d) limited guidance on ventilation. The result was an explosion of cases in schools in the Autumn term of 2020.

58. There were a number of key issues in respect of schools and transmission:

- (a) **Classrooms and class sizes:** At various points in the pandemic, education unions urged use of smaller class sizes to keep education more viable, including ‘Nightingale’ classrooms and introduction of rotas, but it does not appear that these options were given serious consideration by the Government. Instead, schools were left with the impossible task of seeking to self-distance pupils with large classes in ordinary classrooms.
- (b) **Face coverings:** There was an intransigence against giving guidance advocating the use of masks, including in secondary schools. The World Health Organisation had advised in August 2020 that children aged 12 and over should *“wear a mask under the same conditions as adults, in particular where they cannot guarantee at least a 1 metre distance from others and there is widespread transmission in the area”* (INQ000146054\_0075). The DfE Guidance for Autumn 2020 simply advised that schools could choose whether to implement face coverings in communal areas. That was an abdication of decision-making responsibility. The rationale for not advising face masks in classrooms was that the protective measures already in classrooms (such as social distancing) rendered it unnecessary. That was an unrealistic view of the reality of the risks in crowded and poorly ventilated classrooms. The guidance was subject to the modest amendment on 16<sup>th</sup> October 2020 to positively advise face coverings *“when moving around indoors”*. In February 2021 the advice was to implement face coverings in classrooms, but that was removed in May 2021. Concern as to that decision was compounded by Downing Street having leaned on Public Health England not to publish crucial data on the spread of the new India (Delta) Covid-19 variant in schools. Unions were repeatedly asking for the data to be published. Face covering guidance was eased at a time that there was also a lack of transparency as to the evidence on transmission in schools, and at a point in time that the variant was spreading.



Many members of the TUC affiliated unions were shocked that in May 2021 the Government was prepared, yet again, to ignore the advice of experts and relax the guidance on face coverings. On 13<sup>th</sup> May 2021, a group of education unions (NEU, GMB, NASUWT, UNISON, Unite) wrote a joint letter to all employers (local authorities and multi academy trusts) and all head teachers/principals, encouraging them to keep the then face coverings arrangements in place. To the TUC's affiliated unions, it always appeared that learning was much more inhibited by missing school because of catching Covid-19, and its spread, than the wearing of a face covering. The equivocal and limited use of face coverings in schools appeared to be based on an instinctive of opposition to it, rather than any sound public health advice.

(c) **Ventilation:** It was relatively early in the pandemic that ventilation came to be understood as an important measure to reduce transmission. It was mentioned in an operational guidance document of July 2020 advising “*sensible changes to increase ventilation*” (INQ000075668). A SAGE paper of September 2020 advised that “*Ventilation should be integral to the Covid-19 risk mitigation strategy for all multi-occupant public buildings and workplaces*”, and gave detailed guidance as to the appropriate CO<sub>2</sub> levels in multi-occupant spaces (below 1500ppm) and spaces where there is likely to be enhanced aerosol generation (below 800ppm). On 19<sup>th</sup> October 2020, the BBC was reporting that the German government was investing £452million in improving ventilation systems in public buildings such as schools, including by use of CO<sub>2</sub> sensors and air purifiers. However, it was not until July 2021 that decisions were taken by the DfE around the provision of CO<sub>2</sub> monitors (INQ000146054\_0122), and Christmas 2021 for most eligible settings to receive monitors. It was January 2022 before air purifying units purchased through the DfE established ‘marketplace’ began arriving in schools, 18 months after ventilation was first identified as “*integral*” to appropriate risk mitigation strategy. That was unacceptable delay.

(d) **Test and trace:** Test and trace was recognised from early in the pandemic as an important NPI, including in relation to the reopening of schools. On 30<sup>th</sup> May 2020



there were union calls to hold back wider opening of schools until there was a fully functioning test and trace system. The NEU had called for school attendance to be restricted during the November 2020 lockdown, with the four weeks used to improve the test and trace system. On 15<sup>th</sup> December 2020 it was announced that, from January 2021, staff and students in secondary schools and colleges would have access to weekly asymptomatic lateral flow testing, and daily testing for seven days should they be identified as a close contact of someone who tested positive. It was a monumental ask of schools, presenting huge and unprecedented logistical challenges, and the timing of the announcement dismayed teachers and school leaders. Then, on 17<sup>th</sup> December 2020, it was announced that a round of testing for all staff and students would be available from the first week of January, with a staggered return to try and enable that to be achieved. Schools, on virtually no notice, were suddenly being asked to act as *quasi* health care centres for huge numbers of staff and children. The manner and timing of decision-making contributed to a huge crisis of confidence of the teaching profession in government. Giving school staff and pupils access to testing was necessary, but the way in which government attempted to introduce this was flawed in almost every respect.

### **Liaison with unions**

59. The chaotic decision making on NPIs in schools was contributed to by a lack of meaningful consultation with stakeholders, including with unions. The lack of consultation also compounded the crisis of confidence of teachers, support staff and school leaders in the government. Over time the government appeared to want to take the most oppositional position to education unions, rather than build coalitions across the political divide to most effectively manage the emergency.
60. Ministers had a constitutional role to make decisions but there was a remarkable level of consensus amongst stakeholders on a range of issues and this was too often ignored. Very often guidance was produced without consultation with those it was for, and those who knew most about frontline context and implementation. Drafts that were shared were done so too late – deadlines were frequently hours not days, and they

were presented with little room for manoeuvre or willingness to change based upon expert advice and input received.

61. The DfE corporate statement describes that, in January 2021, it was “*recognis[ed] that stakeholders needed to be more closely involved in policy development before decisions were taken*”, and it established the Permanent Secretary Stakeholder Group. That was a welcome development, but made ten months into the pandemic and only after many of the damaging decisions had already been made; and there still continued to be ongoing difficulty with lack of transparency around infection rates within schools.
62. It is welcome that the DfE’s corporate statement describes a “*key lesson*” of the Covid-19 pandemic being to build stronger communication channels with stakeholders. It is important, also, that it is as meaningful line of communication. Engaging meaningfully with the unions that represent hundreds of thousands of frontline key workers across the education sector should be key to any future pandemic response.

## CONCLUSION

63. A pandemic such as Covid-19 poses huge risks to workers’ health, jobs and livelihoods. Undoubtedly, there was a national effort during the pandemic, and we owe a significant debt of gratitude to the many thousands who continued to work in front line roles in order to keep the country going. Many of those in front line roles were working for low rates of pay and in insecure work, notwithstanding the high risks they faced. Tragically, many paid too high a price, either with their lives, or the effects of long covid, or financial and social consequences of NPIs.
64. The effectiveness of NPIs in the workplace is centrally important to managing a pandemic, whilst also enabling the economy to survive and crucial services to continue. Where NPIs are ineffective, workplaces can be vectors for transmission and lead to loss of life. It is also in workplace inequalities that much of the unequal impact of the pandemic was revealed.

65. A crucial part of this Inquiry, if not the most important, is to look forward to the next pandemic. The TUC considers that the disparate impacts of a future pandemic will be greatly diminished by:

- (a) Political decision-making that does not suffer from the dysfunction described above;
- (b) Addressing the structural inequalities and discrimination in the labour market and in workplaces that place some groups of workers at higher risk.
- (c) Social partnership arrangements with government, and representative bodies of employers and employees, in which the views and needs of those in front line work plays a significant role in decision making and government guidance on NPIs.
- (d) The provision of adequate sick pay and financial support for self-isolation; and,
- (e) Effective mechanisms for monitoring and enforcement of health and safety standards in the workplace, particularly, of course, in the range of front-line roles, not only in health and social care but also sectors such as retail, manufacturing, and food processing.

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**26<sup>TH</sup> September 2023**