
WITNESS STATEMENT OF KATE BELL (THE TUC)

I am Kate Bell, Assistant General Secretary of the Trades Union Congress ("TUC"). My office address is Congress House, Great Russell Street, London, WC1B 3LS.

1. I make this statement on behalf of the TUC in response to a letter dated 12 December 2022 sent on behalf of the Chair of the UK Covid-19 Public Inquiry (the "Inquiry"), pursuant to Rule 9 of the Inquiry Rules 2006. This statement is made for the purposes of Module 2 of the Inquiry, which is examining the UK's core political and administrative decision-making in relation to the Covid-19 pandemic between early January 2020 until Covid-19 restrictions were lifted in February 2022.
2. This statement is structured as follows:
 - a) Introduction;
 - b) The structure and role of the TUC;
 - The relationship between the TUC and its sister organisations in the devolved nations*
 - TUC Governance*
 - Working with our unions*
 - c) Arrangements for liaison and communication with the UK Government;
 - Pre-existing arrangements for UK Government engagement with unions*
 - Use of these existing forums in the pandemic*
 - An overview of engagement through the pandemic*
 - New (temporary) sector specific forums led by government departments*
 - Ad-hoc sectoral and thematic meetings organised around key government initiatives*
 - Select committees*
 - d) TUC engagement with the UK Government on specific Non-Pharmaceutical Interventions (NPIs) and NPIs in the workplace;

Management of NPIs in workplace settings
Sector specific guidance
Living with covid
Self-isolation and sick pay
PPE
Restricted opening of schools
The challenge of different NPIs across the devolved nations

- e) Public health regulations and enforcement;
The role of HSE and Local Authorities in inspecting and enforcing regulations, legislation and guidance
Enforcement Management Model (EMM)
Failure to classify Covid-19 as an occupational disease
- f) Impact on our members;
Under-reporting of occupational exposure to Covid-19
BME workers
Pregnant women and mothers
Disabled workers experiences
Women
Migrant workers
The young
- g) Conclusions and lessons learned.

A. INTRODUCTION

- 3. The TUC was founded in 1868 and brings together 5.5 million working people that make up its 48 member unions, from all parts of the UK. The TUC seeks to stand up for everyone who works for a living, making sure their voices are heard, by publishing research and evidence and campaigning for changes to the law and in society. We seek to put working people at the heart of our society, economy and politics. We do this by supporting trade unions to grow and thrive, helping them represent their members and keep pace with the changing world of work. We advocate for collective bargaining and trade unionism and we aim to help union members get on in life.
- 4. Our values guide us in all our work. We stand for equality, fairness and justice, and for dignity and respect for all working people. We believe in solidarity: that working people can achieve more acting together than they can do on their own. And we are internationalists, acting with trade unionists around the world to promote working people's interests.
- 5. I joined the TUC in 2016 as its head of economic, international and employment rights department. I played an active role for the TUC during the course of pandemic, particularly

in relation to liaising with ministers and civil servants in relation to the furlough scheme. I have also led the TUC's campaign for a £15 minimum wage, common ownership in the energy sector and stronger worker bargaining rights. Prior to joining the TUC I worked as Head of Policy and Public Affairs for a local authority.

6. Over 15,000 people of working age died in the pandemic, many of whom were key workers in high-risk workplaces in sectors such as health, social care, transport, food processing and textiles, a great many of whom were TUC members. Black workers were particularly hard hit, with BME men 57% more likely to be working in jobs with a higher mortality rate, and BME women 48% more likely. As the then TUC General Secretary, Name Redacted put it in a joint statement released with the Covid Bereaved Families for Justice on Workers' Memorial Day in April 2022: *"We'll forever be in the debt of the workers who kept the country going during the pandemic - nurses, carers, bus drivers, factory workers and so many more. Far too many were exposed to the virus at work - and lost their lives as a consequence. Now the government owes it to them, and to their families, to make sure the public inquiry investigates what should have been done to keep everyone safe at work."*
7. The TUC engaged in numerous interactions (and attempts at engaging) with the UK Government during the pandemic, including correspondence and meetings with ministers and government departments. The TUC was primarily focussed upon and concerned with:
 - Promoting dialogue between unions and employers in the workplace and at a national and sectoral level
 - The adequacy of guidance on managing Non-Pharmaceutical Interventions (NPIs) in workplaces, including guidance intended for particular sectors
 - The adequacy of guidance on safe return to work following the easing of 'lockdowns'
 - The availability and provision of personal protective equipment (PPE)
 - Specific issues around opening and closing of schools
 - The inspection and enforcement of NPIs in the workplace
 - The disparate impact of the pandemic upon protected and vulnerable groups
8. In contrast to the position in other devolved nations, the arrangements for social partnership between unions, employers and the UK government were extremely limited. There was no overarching pre-existing and effective mechanism for dialogue and consultation that could be utilised once the pandemic hit. The pandemic had such significant implications for the workplace that it did prompt a significant increase in UK

government outreach to unions. However, our view was that these hastily arranged, and ad hoc communications were ineffective. Aside from the issue of the furlough scheme, on which there did appear to be meaningful engagement, the overall impression of the TUC and member unions was that the increased dialogue was primarily 'top-down' provision of information rather than genuine consultation and collaboration. We saw little evidence that union evidence and perspectives fed into government decision making.

9. The TUC did significant work in seeking to understanding, and to advocate for, working people, in particular protected and vulnerable groups. The several reports we published during the course of the pandemic are summarised in this statement, and also exhibited.

B. STRUCTURE AND ROLE OF THE TUC

10. The TUC supports trade unions to grow and thrive, and we stand up for everyone who works for a living. We campaign for more and better jobs, and a more equal, more prosperous country.
11. The TUC has 48 member unions, each of which is listed at [Exhibit KB2/1 - INQ000119021]. The TUC exists to support its member unions and the members of those unions. In doing so, it brings together 5.5 million working people. The member unions of the TUC span a wide array of sectors, across the UK, all of which were affected by the pandemic. The sectors represented by the TUC member unions include workers in the whole range of health and social care services, construction and manufacturing, railways, aviation, education, food industries, communications workers, fire and rescue services, the civil service, and the arts.
12. During the course of the pandemic, the TUC was led by its then General Secretary, Frances O'Grady. Following her retirement, she was replaced as General Secretary by Paul Nowak, who commenced his role in January 2023.

The relationship between the TUC and its sister organisations in the devolved nations

13. The Wales TUC ("WTUC") is part of the TUC and sits within the TUC's Organisational Services and Skills Department. It is an integral part of the wider organisation but autonomous in some policy areas. The WTUC consists of trade unions that are affiliated to the TUC and who have members in Wales and trades union councils in Wales registered with the WTUC. The WTUC has devolved responsibility within the TUC for: matters which

are within the powers of the Welsh Government and the Senedd; matters that are wholly specific to Wales; and developing policy on matters which impact substantially differently on Wales than elsewhere in the UK. Regarding clearly UK-wide, non-devolved matters that do not impact Wales substantially differently to the rest of the UK, WTUC provides advice to the TUC on delivery in the Welsh context.

14. The Scottish TUC ("STUC") is not part of the TUC; it is an independent trade union centre to which trade unions affiliate their Scottish membership. The STUC represents over 540,00 trade union members in Scotland from 40 affiliated trade unions and 20 trade union councils and is governed by the STUC General Council who are elected annually at Congress.
15. The Irish Congress of Trade Unions is also an independent trade union centre. It represents trade union members across both Northern Ireland and in the Republic of Ireland. The Northern Ireland Office (ICTU-NI) is responsible for all issues affecting nearly 250,000 members in 36 unions in Northern Ireland. Many of the functions of that office are similar to those in Head Office of the Irish Congress, although the Northern Ireland Office operates, of course, within a different environment, dealing with British trade union legislation and a significantly different economic and social environment.
16. The TUC works in partnership with our sister centres in devolved nations within the UK, either through an integrated formal structure with WTUC or through collaboration with STUC and ICTU-NI where we campaign on UK-wide issues of relevance to our members. This relationship is formalised with the STUC, WTUC and Irish Congress of Trade Unions through a body known as the Council of the Isles, which brings representatives from each trade union centre on an annual basis.
17. I understand that the STUC, WTUC and NIC-ICTU have already provided, are providing or will provide Rule 9 statements for Modules 2A, 2B and 2C of this Inquiry regarding decision-making by the Scottish Government, Welsh Government and Northern Ireland Executive to manage the emergency response to Covid-19. In several important areas, such as workplace regulations and travel restrictions, the UK government was responsible for NPIs in England only. The devolved administrations were responsible for these in the other three nations. The relevant regulations in Scotland and Wales regarding retail and schools, for example, were in closer alignment with trade union advice on public health and safety than those in England. For clarity, unless otherwise indicated, this statement refers to matters in England only.

TUC Governance

18. TUC policy is set by Congress each year. Between Congresses, responsibility lies with the General Council. The 56 members of the General Council meet every two months at Congress House to oversee the TUC's work programme and sanction new policy initiatives. The larger unions are automatically represented on the General Council, with up to ten members depending on the size of the union. The smaller unions ballot for a number of reserved places. There are also seats reserved for women and Black workers, and a reserved space for one representative each of young workers, workers with disabilities and LGBT workers.
19. Each year at its first post-Congress meeting, the General Council appoints a 24-member Executive Committee for the year from amongst its own members. This meets monthly to implement and develop policy, manage the TUC financial affairs and deal with any urgent business. It also appoints the TUC President for the year.
20. Task groups are set up by the General Council to deal with specific areas of policy such as learning and skills or representation at work. Committees are permanent bodies which link to other parts of the trade union movement. The Women's Committee includes members elected at the annual TUC Women's Conference as well as General Council members. The Race Relations Committee, the Disability Committee and the LGBT Committee have similar links to their own conferences. The Young Members' Forum also reports to the General Council, as does the body representing Trades Union Councils (local trade union bodies).
21. In addition to Committees, the TUC has also a number of advisory groups which bring unions together to inform TUC strategy with a specific thematic or sectoral focus. This includes the Trade Union Sustainable Development Advisory Committee (TUSDAC), the Union Health and Safety Specialists (UHSS) the Union Legal Officers Network (ULON) and the Public Services Liaison Group (PSLG).
22. The PSLG includes senior representatives of 22 unions with members in the public sector. During the pandemic it played a particularly important role within the TUC, advising on the impact of the pandemic on key workers providing public services, workplace safety management – including the provision of PPE - and the response of public service providers to managing the pandemic, including health, social care and education.
23. In addition to my current role as Assistant General Secretary, during the pandemic I was head of our Rights, International, Social and Economic Affairs (RISE) Department. The

policy teams within this Department covered issues related to the pandemic, including financial support for workers and business, such as the Coronavirus Job Retention Scheme (CJRS), the Self-Employed Income Support Scheme (SEISS), Statutory Sick Pay (SSP) and the Self-Isolation Payment initiative as well as employment rights, insecure work and specific private sector industries. Along with my team, I took responsibility for leading our engagement with the Department for Business, Energy and Industrial Strategy (BEIS).

24. In addition to my role and that of Paul Nowak, our General Secretary, our Senior Management Team is made up of the Heads of Department representing different teams within the TUC, all of whom played a key role in the pandemic both in terms of their liaison with affiliated unions and public-facing campaigns and communications but also the part they played in engaging directly with government ministers and senior civil servants. They are as follows:

- (a) Kevin Rowan, Head of Organisation, Skills and Services (OSSD) – covering health and safety, public services, TUC regions and education.
- (b) Antonia Bance, Head of Campaigns and Communications (CCD) – covering campaigns, media, social media and communications.
- (c) Kudsia Batool (and formerly Alice Hood and Nicola Smith), Head of Equalities and Strategy (ESD) – covering policy work and support for women, BAME, disabled and LGBT workers.
- (d) Matilda Quiney, Head of Management Services (MSAD) – covering corporate affairs, personnel and internal management services.

Working with our unions

25. There are a number of ways in which the TUC works with its member unions, in particular:

- (a) The TUC briefs member unions on economic, equalities, workplace and social policy, and on trends in the workplace and economy. The TUC also supports unions by engaging with government and political parties on the development of policy. The TUC co-ordinates union representation on public bodies and supports ongoing formal discussions with government, such as the joint forum for government and unions with members working in the public sector.

- (b) Every year, the TUC trains thousands of union reps, enabling them to develop the skills, knowledge and confidence to represent their members at work.
- (c) The TUC helps unions to grow, organising training and working alongside unions to develop their recruitment and organising strategies.
- (d) The TUC supports the professional development of staff who work for unions, through formal training and through best practice events. We run a number of informal networks for trade union staff in similar jobs – for example, legal officers, HR officers, political staff and communicators.

C. ARRANGEMENTS FOR LIAISON AND COMMUNICATION WITH THE UK GOVERNMENT

26. In this section I provide an overview of the general arrangements that existed during the course of the pandemic for communication and liaison between the TUC and the UK Government, and the initial contact with the government in the period January to March 2020.

Pre-existing arrangements for UK Government engagement with unions

27. In contrast to the experience of the TUC 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.
28. Although there would, of course, be meetings and correspondence with ministers and civil servants on specific issues across a range of departments as a matter of the everyday work of the TUC, there was nothing approaching the levels of social partnership, joint decision-making or sector wide agreements and initiatives that were in place between unions and the devolved governments of Scotland and Wales.
29. Even the regular 'Programme of Talks' meetings involving the DfE and teacher unions, a well-established engagement mechanism that had been taking place since 2014, was suspended, with no suitable alternative arrangement put in place.
30. Beyond the participation of trade union representatives in certain government agencies such as the Health and Safety Executive and the Low Pay Commission, the only vestiges of strategic engagement between the TUC, its member unions and central government

departments was through the Public Services Forum (PSF). By strategic engagement, we mean structured dialogue and action with government directly related to strategic issues affecting the public service workforce - not matters of pay and terms and conditions which are dealt with through different forms of negotiating structures and Pay Review Bodies.

31. Formed by the Labour government in 2003, the PSF is Chaired by the Minister for the Cabinet Office (MCO) or Chancellor of the Duchy of Lancaster (CDL) and brings together key government departments, such as the Cabinet Office and HM Treasury, public sector unions and employers, including the Local Government Association (LGA) and NHS Employers, as well as third sector and business organisations with the aim of planning joint approaches to strategic issues concerning the public sector and public sector workforce.

32. Regular attendees at PSF meetings since its inception include:

(a) The TUC along with affiliated unions with membership in the public sector, including UNISON, Unite, GMB, NEU, NASUWT, UCU, PCS, FDA, Prospect, CSP and RCM.

(b) Government departments including Cabinet Office, HM Treasury and Department of Health and Social Care.

(c) Employer organisations in the public sector and beyond, including the Local Government Association (LGA), NHS Employers, the National Council for Voluntary Organisations (NCVO) and the Confederation of British Industry (CBI).

33. The PSF does not have a formal decision-making role but can agree joint initiatives with government departments – the most recent project being the development of a good work and well-being programme to foster partnership with unions and encourage good employment practices across the public sector.

34. Although a Labour government initiative, successive Conservative-led administrations have maintained the PSF since 2010. However, in recent years the PSF has met infrequently and joint initiatives, including the health and well-being project, were not followed through to completion or were not given effective promotion due to dwindling resources and ministerial focus. For example, the PSF met at least twice a year between 2011 and 2019 but met just three times across 2019 and 2020. It has not met since 22 June 2020, despite numerous written requests from the TUC asking for the PSF to be reconvened, a number of which have gone unanswered by various Ministers.

35. While at the outbreak of the pandemic the PSF was the only structural engagement between the TUC and government ministers at a cross-sectoral level, there were systematic forms of engagement between unions, employers and ministers within the healthcare sector through the NHS Social Partnership Forum (SPF) and also the civil service, through the National Trade Union Committee (NTUC). The NHS SPF in its current form was established in 2006 and is chaired by the Secretary of State for Health and formed of senior representatives of the Department of Health, NHS England, Health Education England, NHS employers and unions. It is a more fully resourced and effective structure than the PSF. It has a permanent secretariat, as well as a series of working groups on different issues as well as regional SPF machinery that reflect arrangements at the national level. A new SPF group was established for the pandemic, called the 'Covid-19 SPF Engagement Group'. This had an expanded membership, for example including representatives from Unite and GMB. The group's first meeting was on 30 March 2020 and it met weekly until 21 July 2020, after which meetings were held fortnightly.
36. SPF initiatives were carried through on a number of issues related to workforce development and change, health and well-being across trusts and NHS regions over a number of years and proved to be a useful forum for addressing some of the challenges arising from the pandemic. Although, implementation of SPF initiatives at the local level was variable and not always successful.
37. The NTUC of civil service unions was jointly engaged with Cabinet Office senior officials in looking at the implications of Covid-19 from early March 2020, just before the first lockdown began. There were regular, weekly meetings between the Cabinet Office and the Trade Unions (PCS, POA, Prospect, FDA, GMB and Unite). Initially this was a dynamic experience with departments relying heavily on the Guidance Policies produced at the centre to focus on a wide variety of measures to deal with the impact of the Covid-19 restrictions. These temporary consultation arrangements continued beyond the initial period of learning about the virus and weekly meetings continued for 2 years until April 2022. On occasions, meetings involved the Government Property Agency, the health and safety profession and NHS specialists, and unions offered expertise from their Health and Safety Officers.
38. The key point to make here is that the absence of effective structures at the outset of the pandemic, outside of the NHS and civil service, meant that the government was ill-prepared to undertake the necessary engagement with unions to implement joint approaches to managing the pandemic, develop relevant guidance or promote effective communication. Instead, new ad-hoc arrangements were convened at short notice and the

absence of a culture of social partnership undermined the trust and understanding necessary to agree effective joint action and messaging, as we shall see in subsequent sections.

Use of these existing forums in the pandemic

39. In the case of the Cabinet Office there was significant engagement, in contrast to the relative lack of progress with the Public Services Forum in the months leading to the pandemic. Given the Chancellor of the Duchy of Lancaster (CDL) Michael Gove's role in coordinating pandemic responses across government, this channel of communication was particularly welcomed in the early months of the crisis.
40. The Public Services Forum met on three occasions in the first 3 months of the pandemic, on 24 March 2020 [Exhibit KB2/2 - INQ000119022], 7 May 2020 [Exhibit KB2/3 - INQ000119023] and 22 June 2020 [Exhibit KB2/4 - INQ000119024] and this was also supplemented by a specific CDL roundtable with public sector unions on 9 April. These PSF meetings had a focus on public service capacity, provision of PPE and management of safety in public service settings.
41. In addition to the collective engagement through the PSF and union roundtables, three further one to one meetings were held between the CDL and Frances O'Grady on 3 April 2020, 22 June 2020 (ahead of the PSF) and 19 November 2020 – again covering a broad range of issues related to public services, test and trace, PPE provision and schools policy.
42. The NHS SPF met on average every month throughout the pandemic, whilst the Covid-19 SPF Engagement Group met more frequently, as I have explained above. Matters discussed varied at each meeting but key, consistent themes were issues such as the availability of PPE and the risk to BAME workers. I exhibit notes of some of these meetings between March 2020 and April 2021 [Exhibit KB2/5 - INQ000119025]; [Exhibit KB2/6 - INQ000119026]; [Exhibit KB2/7 - INQ000119027]; [Exhibit KB2/8 - INQ000119028]; [Exhibit KB2/9 - INQ000119029]; [Exhibit KB2/10 - INQ000119030]; [Exhibit KB2/11 - INQ000119041]; [Exhibit KB2/12 - INQ000119054]; [Exhibit KB2/13 - INQ000119067]; [Exhibit KB2/14 - INQ000119081]; [Exhibit KB2/15 - INQ000119092].
43. As indicated in paragraph 38 above, the NTUC unions in the civil service had regular weekly meetings over a two-year period with the Cabinet Office. In the beginning some useful decisions were made about the implications of the pandemic and lockdown for handling terms and conditions. For instance, guidance was produced to ensure that sick absence related to Covid-19 did not restrict full sick pay or result in sanctions for lengthy

absences from work. The joint activity was constant, with detailed discussions on many important issues, and at some meetings there was also input from Government Property Agency, professional health and safety colleagues, as well as the six unions (PCS, POA, Prospect, FDA, GMB and Unite) and trade union health and safety representatives. Important aspects of business related to COVID and lockdown conditions were:

- a) Attendance/Absence and Special Leave;
- b) Working from Home and Wellbeing;
- c) Diversity, Inclusion and Equality;
- d) Workplace Risk Assessments and Individual Risk Indicators;
- e) Travelling/Quarantine;
- f) Death in Service;
- g) Managing Performance;
- h) Workplace Safety Protocol; and
- i) Safeguarding via Social Distancing, Ventilation/Air Quality measures.

44. Apart from some good initial decisions to handle matters early in 2020, there were few helpful decisions and indeed examples of poor consultation later, particularly in relation to periods of returning to workplaces and the timing of these changes. In many ways the overall experience of the Covid-19 dialogue was unsatisfactory.

An overview of engagement through the pandemic

45. Over the course of the pandemic, liaison and communication with the government increased significantly. The following table maps the number of engagements that the TUC had – calls or meetings (including roundtables with other unions and stakeholders) – with key civil servants (Deputy Director level and above) and ministers across government departments in 2020 and 2021. This shows a pronounced spike in Q2 2020 followed by a tailing off of ministerial engagement but a regular pattern of departmental engagement with civil servants maintained throughout the pandemic.

Year	2020				2021			
Quarter	1	2	3	4	1	2	2	4
Civil servants	29	96	42	42	40	34	35	31
Ministers	13	43	17	14	7	8	7	3

**This table indicates meetings directly involving the TUC and does not record meetings that member unions may have had in addition.*

46. Liaison and communication with the government generally occurred in five main ways:

- (a) Direct engagement with government ministers and senior civil servants on specific issues, through correspondence, telephone calls and meetings.
- (b) Utilisation of existing forums such as the PSF, NHS SPF and civil service NTUC.
- (c) Creation of new but temporary sector specific forums led by government departments, including the Department for Transport, Department for Education, Department for Business, Energy and Industrial Strategy (BEIS), Department for Environment, Food and Rural Affairs (DEFRA) and Department for Digital, Culture, Media and Sport (DCMS).
- (d) Ad-hoc sectoral and thematic meetings organised around key government initiatives, such as the series of BEIS-convened meetings with unions and employers around workplace guidance.
- (e) Submissions to government consultations and select committees.

47. The main areas of dialogue between the TUC and government were around (i) financial support to workers and businesses and (ii) the management of NPIs in the workplace and across specific sectors and industries. Our understanding is that financial support will be the primary focus of a later, yet to be determined, module. Therefore, this witness statement refers only to engagement with the government on issues related to the management and communication of NPIs in the workplace and across specific sector and industries.

48. In a press release of 9 March 2020, the TUC made its first call for the government to establish a taskforce with unions and business to design an emergency support package, ensure public services are kept running and public sector workers are protected from the virus and to fix the UK's sick pay rules so that every worker has financial support regardless of how much they earn [Exhibit KB2/16 - INQ000119103]. This was followed up with a press release on 11 March, in response to the Budget, where the TUC set out further the need for a taskforce so that ministers could *"bring together unions and employers to talk about how to support jobs, including through wage subsidies for short time working schemes, and further help for public services – especially social care"* [Exhibit KB2/250 - INQ000192221]. On 17 March 2020, these calls were reiterated by Assistant General Secretary, Paul Nowak, when he appeared before the BEIS Select Committee [Exhibit KB2/17 - INQ000119114].
49. It was around this time, on 12 March 2020, when representatives of GMB, Prospect, POA, PCS and FDA attended a meeting with the Cabinet Office to discuss how the Government was advising departments on steps to take regarding absence, attendance and other HR matters [Exhibit KB2/18 - INQ000119125]; [Exhibit KB2/19 - INQ000119136]. The unions stressed the need for Government to lead by example and that any guidance should include the need to protect vulnerable groups. They also highlighted the need for Government to ensure contractors pay staff full wages in the event the employee was sick with the virus or had to self-isolate. It was agreed that the unions and the Cabinet Office would meet once or twice a week to jointly review the situation and to amend guidance.
50. Also on 17 March 2020, the TUC wrote to the Prime Minister Boris Johnson asking him to set up a government taskforce to pull together unions, business and government agencies to work together to minimise the economic and health impact of the challenges arising from the Covid-19 pandemic [Exhibit KB2/20 - INQ000119147]. This letter was copied to both Alok Sharma, BEIS Secretary and Michael Gove, CDL. The letter stressed that the TUC was *"keen to work in partnership with the government and employers to ensure an effective national response to our businesses and workers facing this crisis"* and called for a taskforce comprised of representatives of key government agencies, trade unions and employers' representatives and chaired by a relevant government minister in order to ensure joined-up approaches across government departments and agencies. The TUC did not receive a response to this letter.
51. On the same day, 17 March 2020, the Prime Minister announced the creation of four new ministerial-led committees to coordinate responses to the pandemic covering healthcare, general public sector, economic and business and international. The announcement made

reference to engagement with key stakeholders in relevant sectors. In a press conference that same day, the Chancellor stated that he *“would work closely with trade unions and industry to protect jobs during this period”* – a point he reiterated at a meeting of the Treasury Select Committee the next day.

52. On 18 March 2020, the TUC set out in more detail the measures that the government should take to support working people, businesses and jobs during the pandemic in our published report *‘Protecting workers’ jobs and livelihoods - the economic response to the coronavirus’* [Exhibit KB2/21 - INQ000119158]. The report again called upon the Prime Minister to establish a taskforce chaired by a Senior Cabinet Minister and comprising unions, business and government agencies to minimise the economic and health impact of the coronavirus pandemic. The TUC suggested the taskforce should have 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.
53. On that same day, initial contact from ministers then took place, through phone calls to TUC General Secretary Frances O’Grady from the Chancellor Rishi Sunak and BEIS Secretary Alok Sharma. There was also a conference call with transport unions, hosted by the rail minister, Chris Heaton-Harris, including TUC, RMT, ASLEF, Prospect, BALPA and Unite. I am not in possession of any notes of these calls.
54. This was followed up with an in-person meeting with the Chancellor, the TUC and representatives of business organisations (the Confederation of British Industry (CBI), the Federation of Small Businesses (FSB), and the British Chamber of Commerce (BCC)) at the Treasury on 19 March 2020 – preceded by a meeting with Treasury civil servants earlier that morning to discuss and negotiate details on worker and business support.
55. In a joint statement with HM Treasury following this meeting, Frances O’Grady said *“the TUC and unions stand ready to work with government and employers to protect jobs and livelihoods across the UK. As well as providing emergency support to business, it is essential that money goes into workers’ pockets now. We must do whatever it takes to stop businesses going to the wall and workers being plunged into poverty.”* [Exhibit KB2/251 - INQ000192222].
56. On the same day, a conference call took place with unions and Alok Sharma, including the TUC, UNISON, Unite, GMB, Accord, Prospect and Usdaw, looking at the development of business and worker support as well as providing an opportunity for unions to report the

experience of their members in different sectors and industries. It was agreed to put this conference call on to a regular footing [Exhibit KB2/22 - INQ000119169].

57. Individual unions were at the same time reaching out to ministers in the relevant sectors to seek to establish a dialogue and joint-working approach going forward, see for example GMB's letter to Gavin Williamson at the DfE on 19 March 2020 [Exhibit KB2/23 - INQ000119180] and NEU's letter to Boris Johnson on 17 March 2020 [Exhibit KB2/24 - INQ000119191] seeking engagement and repeating a willingness to meet with the Prime Minister and the Secretary of State for education.

58. A further telephone call with Rishi Sunak and Frances O'Grady took place on 20 March 2020, where the Chancellor fed back some key principles agreed regarding a wage subsidy scheme further discussions that had taken place the previous two days, details of which were announced in a press conference later that day on the Coronavirus Job Retention Scheme.

59. In response to the Chancellor's announcement, the TUC said *"This is a breakthrough. The Chancellor has shown real leadership. We're glad he has listened to unions and taken vital steps to support working families. Large-scale wages subsidies are the best way to boost household finances and keep businesses running. And they'll help our economy bounce back after this crisis. Employers across the economy can now be confident that they will be able to pay their wages bills. They must urgently reassure their staff that their jobs and livelihoods are safe. Unions will continue to work with business and government to protect jobs and livelihoods."* [Exhibit KB2/252 - INQ000192223].

60. A similar process was undertaken as part of the development and launch of the Self-Employed Income Support Scheme (SEISS), with meetings taking place with HMT officials and telephone discussions between the Chancellor and Frances O'Grady on 24, 25 and 26 March 2020.

61. On 25 March 2020 there was the first of a series of weekly meetings of unions representing members in key private sector industries with the Business Minister Paul Scully [Exhibit KB2/25 - INQ000119202]. These meetings included the TUC, UNISON, Unite, GMB, Prospect, CWU, Usdaw, Community and Accord. The meetings were the key mechanism through the pandemic for enabling the minister to update unions on key government decisions around business support, lockdown and NPIs affecting the workplace, while unions were able to raise issues facing their members in different sectors and industries.

These meetings took place on a weekly basis from March 2020 to August 2020, moving to monthly thereafter until May 2022.

62. As the table in paragraph 46 indicates, engagement with ministers and key civil servants was concentrated in the period from March to June 2020 but continued throughout the pandemic – particularly with BEIS, HM Treasury and the DFT.

63. Contact was maintained with HMT officials and with the Chancellor himself throughout 2020 and into 2021. Further telephone discussions and meetings took place between the TUC and the Chancellor, as follows:

- (a) 1 May 2020 – to discuss the government's response to the coronavirus pandemic
- (b) 28 May 2020 – regarding the future of the CJRS
- (c) 7 July 2020 – ahead of the Summer Statement, covering the Plan for Jobs that included JRB, Eat Out to Help Out and launch of Kickstart
- (d) 7 September 2020 – regarding the future of CJRS, Kickstart and other upskilling and employment support measures
- (e) 24 September 2020 – joint meeting and photo call with CBI on the launch of the Job Support Scheme

64. In addition to these meetings, the Chancellor hosted 4 roundtables with trade union participation, as follows:

- (a) 6 May 2020 – considering the safe return to work, future of the CJRS and SEISS and wider recovery – including the TUC, UNISON, Unite, Usdaw, Prospect, NASUWT and Equity [Exhibit KB2/26 - INQ000119203];
- (b) 11 June 2020 – considering safe working, the CJRS and economic recovery [Exhibit KB2/27 - INQ000119204];
- (c) 22 October 2020 – considering strengthening support for businesses through reform of the JSS, including the TUC and a delegation of business organisations from the hospitality sector; and
- (d) 22 September 2021 – considering support for businesses, workers and industries, public services and climate investment and green jobs, including the TUC,

UNISON, Unite, GMB, NEU, Usdaw, NASUWT, Prospect and CWU [Exhibit KB2/28 - INQ000119205].

65. Engagement was also maintained with ministers and key civil servants at BEIS where the focus was both on (i) support for businesses, workers and sectors but also on (ii) safety and implementation of NPIs in workplaces. This took the form of individual meetings and calls with ministers as well as roundtables, including the regular weekly (then monthly) meetings with Business Minister Paul Scully. Meetings included:

- (a) 24 April 2020 – call with Secretary of State Alok Sharma and Paul Nowak, Deputy General Secretary along with business organisations, looking at the process for developing guidance on implementing NPIs at work, ahead of a series of working groups (identified below);
- (b) 1 May 2020 – call with Alok Sharma and Frances O’Grady, ahead of the publication of workplace safety guidance [Exhibit KB2/29 - INQ000119206]; and
- (c) 12 January 2021 – call with Secretary of State Kwasi Kwarteng and Frances O’Grady, introductory meeting to discuss safe working guidance, industrial strategy and employment bill.

66. BEIS ministers also participated in trade union roundtables and conference calls in addition to the regular meetings of unions with Paul Scully, including:

- (a) 19 March 2020 – Secretary of State Alok Sharma roundtable with unions ahead of Chancellor’s announcement on job support, including the TUC, Unite, UNISON, GMB, Usdaw, Prospect, Accord [Exhibit KB2/22 - INQ000119169];
- (b) 30 June 2020 – Alok Sharma roundtable with unions to discuss business support through the recovery, including the TUC, Unite, GMB, Usdaw, CWU, Community, Prospect and Accord [Exhibit KB2/30 - INQ000119207]; and
- (c) 27 January 2021 – Secretary of State Kwasi Kwarteng roundtable with unions to discuss safe working guidance and support for the recovery, including the TUC, Unite, GMB, Usdaw, CWU, Community, Prospect and Accord [Exhibit KB2/31 - INQ000119208].

67. Although the primary focus of TUC engagement was with HM Treasury and BEIS, meetings with ministers took place with a more sector-specific focus, usually

supplementing engagement with sector unions through ongoing roundtables detailed in later paragraphs. These included:

- (a) 28 May 2020 – Secretary of State DFE Gavin Williamson call with Frances O’Grady to discuss policy on reopening of schools and engagement with school staff unions ahead of roundtable with education unions;
- (b) 11 June 2020 – Secretary of State DWP Therese Coffey call with Frances O’Grady to discuss Statutory Sick Pay, HSE inspection and enforcement and social security [Exhibit KB2/32 - INQ000119209]; and
- (c) 12 June 2020 – Secretary of State DCMS Oliver Dowden call with Deputy General Secretary Paul Nowak to discuss support for cultural industries [Exhibit KB2/33 - INQ000119210].

68. Engagement with Number 10 was largely absent until the very late stages of the pandemic. Aside from a meeting with the Chief of Staff Eddie Lister on 11 May 2020 to discuss pandemic response [Exhibit KB2/34 - INQ000119211], there was no direct engagement with the Prime Minister’s office until meetings with Deputy Chief of Staff Simone Finn and Business Adviser [NR] in August and September 2021 [Exhibit KB2/35 - INQ000119212]. There was no direct engagement with the Prime Minister himself until a meeting of 6 December 2021 where the focus was on economic recovery [Exhibit KB2/36 - INQ000119213].

69. Along with ministers, the TUC met with other key actors and decision makers. This included two meetings with Lord Deighton, the government’s PPE tsar, one meeting with Dido Harding on test and trace and, in the absence of any engagement with the Government Equalities Office, there were monthly meetings with the EHRC, including its Chair Baroness Faulkner.

New (temporary) sector specific forums led by government departments

70. Where there was no existing machinery for collective engagement with unions (and other stakeholders), some government departments put new structures in place, this included:

- (a) A series of weekly, then monthly, meetings from March 2020 to May 2022 with unions representing members in the private sector with BEIS, chaired by Business Minister Paul Scully (as detailed above);

- (b) The TUC also attended regular meetings of the B5 group of business organisations with BEIS ministers. See for example [Exhibit KB2/37 - INQ000119214];
- (c) Regular meetings between DFT ministers, including Chris Heaton-Harris, Baroness Vere and Kelly Tolhurst with unions representing members in different transport sectors, particularly rail, aviation and local transport/buses. Around 30 of these meetings took place between March 2020 and June 2021, see for example [Exhibit KB2/38 - INQ000119215]. On 18 May 2020, this was supplemented by a meeting of transport unions with the Secretary of State Grant Shapps [Exhibit KB2/39 - INQ000119216];
- (d) In addition, the TUC and Unite also participated in the DFT's expert steering group bringing a range of organisations together to advise the government on the impact in the aviation industry, which met regularly from May 2020;
- (e) Following a meeting of education unions with the Secretary of State Gavin Williamson on 28 May 2020, the DFE established a stakeholder forum which was chaired by Schools Minister Nick Gibb and included teaching and support staff unions along with other organisations. Invitations to attend were sent on 5 June 2020, with the first meeting on 10 June 2020 [Exhibit KB2/40 - INQ000119217] along with draft terms of reference [Exhibit KB2/41 - INQ000119218]. The intention was for the DFE Stakeholder group to meet every fortnight;
- (f) The TUC also participated in the Cultural Renewal Taskforce convened by the DCMS to coordinate support for the cultural and creative industries, chaired by the Secretary of State Oliver Dowden, which met over a dozen times between May 2020 and January 2021 [Exhibit KB2/42 - INQ000119219]. The Taskforce established a number of working groups looking at different creative and cultural sectors which included TUC member unions; and
- (g) DEFRA-coordinated meetings with unions representing workers in the food production sector, that met on 1 October 2020, including the TUC, GMB, BFAWU and Unite [Exhibit KB2/43 - INQ000119220].

Ad-hoc sectoral and thematic meetings organised around key government initiatives

71. In some cases, departments pulled unions (and other stakeholders) together to inform the development of specific initiatives. A key case in point would be the Business Engagement Forums that BEIS established in April 2020 to work with businesses and unions in

developing guidance on the implementation of NPIs in workplaces and the management of workplace safety.

72. In an intense period of meetings throughout April and May 2020, unions met with other organisations in working groups chaired by the Secretary of State Alok Sharma organised around different sectors and industries (as defined by BEIS) as follows:

- (a) outdoor working
- (b) factory and industry
- (c) office and non-customer facing indoor work
- (d) distribution and logistics
- (e) work carried out in people's homes
- (f) hotels and lodgings

73. I exhibit relevant documents, agendas for and notes of some of these meetings [Exhibit KB2/44 - INQ000119221]; [Exhibit KB2/45 - INQ000119222]; [Exhibit KB2/46 - INQ000119223]; [Exhibit KB2/47 - INQ000119224]; [Exhibit KB2/48 - INQ000119225]; [Exhibit KB2/49 - INQ000119226]; [Exhibit KB2/50 - INQ000119227]; [Exhibit KB2/51 - INQ000119228]; [Exhibit KB2/52 - INQ000119229].

74. Union membership of these working groups was as follows:

Factory and industry:

Frances O'Grady, TUC
Steve Turner, Unite
Jude Brimble, GMB
Sarah Woolley, BFAWU
Roy Rickhuss, Community

Distribution and logistics:

Kevin Rowan, TUC
Diana Holland, Unite
Mark Todd, Usdaw
Mick Rix, GMB
Davie Robertson, CWU

Outdoor working:

Paul Nowak, TUC
Gail Cartmail, Unite
Justin Bowden, GMB
Matt Lay, UNISON
Sue Ferns, Prospect

Leisure, hospitality and well-being:

Nicola Smith, TUC
Dave Turnbull, Unite
Kevin Brandstatter, GMB

Non-customer facing indoor and office work:

Kate Bell, TUC
Gail Cartmail, Unite
Garry Graham, Prospect
Nigel Cotgrove, CWU
Mike Short, UNISON

75. The TUC understands that the situation was rapidly changing and there was a need to issue guidance as soon as possible. Nevertheless, unions had a number of concerns about this particular process both in terms of its management and timescales but also our concerns about the guidance itself, which was published in early May 2020. I set out the detail of these concerns in following sections.
76. There are examples of proposed further specific working groups where resource and capacity was invested by government and unions which came to nothing such as the advisory board *"to steer the work of the body that will be tasked to investigate deaths in the sector"* as referenced by UNISON regarding a meeting of the DHSC and national sector partners in social care of 29 April 2020 [Exhibit KB2/53 - INQ000119230]. UNISON asked to sit on the advisory board but within a week a further note from UNISON reveals that the government had changed tack saying *"it is now looking more likely that we will pursue routes using existing NHS resources for social care as well – rather than an external investigator route. It's likely we won't need to rely on an advisory group therefore"*. What led to that change was not revealed, and it meant that an NHS workforce under immense pressure was used rather than external support options.

Select committees

77. Although select committees are not part of the government, they also offered an important mechanism for the TUC to set out its agenda on the response to the pandemic with MPs and ministers. This included the provision of oral evidence, in addition to written submissions, to the following committees:
- (a) 17 March 2020 – Paul Nowak, Deputy General Secretary at Treasury Select Committee inquiry – *the impact of CV19 on workers and businesses* [Exhibit KB2/17 - INQ000119114];

- (b) 20 May 2020 – Kate Bell, Head of RISE, TUC at Work and Pensions Select Committee inquiry – *the DWP’s response to the coronavirus outbreak* [Exhibit KB2/54 - INQ000119231];
- (c) 24 September 2020 – Kate Bell, Head of RISE, TUC at BEIS Select Committee inquiry – *Post-Pandemic Economic Growth* [Exhibit KB2/253 - INQ000192224];
- (d) 6 October 2020 – Paul Nowak, Deputy General Secretary, TUC at Treasury Select Committee inquiry – *the economic impact of coronavirus* [Exhibit KB2/55 - INQ000119232];
- (e) 4 November 2020 – Kate Bell, Head of RISE, TUC at Work and Pensions Select Committee inquiry – *DWP’s preparations for changes in the world of work* [Exhibit KB2/56 - INQ000119233];
- (f) 17 March 2021 – Paul Nowak, Deputy General Secretary, TUC and Mick Clancy, General Secretary, Prospect at Work and Pensions Select Committee inquiry – *Covid safety in the workplace*. [Exhibit KB2/57 - INQ000119234]; and
- (g) 20 September 2021 – Paul Nowak, Deputy General Secretary, TUC at Treasury Select Committee inquiry – *jobs and growth after the pandemic*. [Exhibit KB2/58 - INQ000119235].

D. TUC ENGAGEMENT WITH THE GOVERNMENT ON SPECIFIC NPIs AND NPIs IN THE WORKPLACE

78. I provide an overview of the TUC’s engagement with the UK Government on a number of NPIs, in particular: (a) management of NPIs in the workplace, (b) sector specific guidance, (c) self-isolation (and the crucial role of sick pay), (c) living with Covid, (b) PPE, (e) restricted opening of schools, and (f) the challenge of different NPIs across the devolved nations.

79. Generally, however, the TUC raised concerns at a very early stage as to the effectiveness of NPIs in the workplace. On 3 April 2020 we published a report, ‘*Protecting workers’ safety in the coronavirus pandemic*’ [Exhibit KB2/59 - INQ000119236]. We reported knowing from our member unions that many good employers had worked with their unions to agree safe working practices, but we were also 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. We reported having received over 1,000 contacts from workers about unsafe working in the current crises. As we reported:

- Over 450 people told us that they had not been supplied with appropriate PPE
- Over 420 told us that they did not have adequate hygiene or social distancing measures in place
- More than 240 workers said that their employer was not putting in place specific support for vulnerable colleagues
- Just over 100 said that they were being forced to take non-essential journeys on public transport as a result of being asked to come in to work.

80. The report also included a number of case studies, such as that of a retail worker from Hertfordshire who reported that: *“There’s no extra cleaning measures being put in place. Our tills are closer than 2 metres apart, and we aren’t being given hand sanitiser or gloves. We don’t have social distancing in the queues at the checkout and customers are standing too close to each other and to staff.”*

81. A significant difficulty was that measures for monitoring and enforcement of NPIs in the workplace were virtually non-existent. This is addressed in the section below on the enforcement of public health regulations.

Management of NPIs in workplace settings

82. The management of NPIs in workplace settings was a major issue for unions throughout the pandemic. Unions had a key role to play in informing government action, working with employers to implement effective safeguards and good practice and engaging with members to identify safety risks and communicate them to employers and government.

83. While in many cases good practice was developed with individual employers and, in some cases, with employer groups and government at a sectoral level, there were a number of concerns that were raised throughout the pandemic. These included:

- Effective engagement with unions in the development, communication and implementation of government guidance
- Ensuring guidance was appropriate to specific sectors, industries and occupations
- Employers’ management of NPIs and compliance with guidance
- Recognition of the role of unions and union reps, particularly safety reps, in the management and implementation of NPIs

- Effectively communicating guidance to the workforce, including awareness of workplace and employment rights relevant to health, safety and well-being at work.

84. As the following paragraphs show, there were recurrent patterns throughout the pandemic in the government's engagement with unions, employers and other stakeholders on the development, communication and implementation of NPIs at work. These were:

- 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;
- The release of revised guidance with little or no consultation;
- Very little movement in response to issues raised by unions through consultation;
- Prioritisation of PHE or HSE guidance over consultation with unions and employers and 'on the ground' intelligence;
- Guidance for employers based on voluntary or limited steps for the implementation of NPIs and for the monitoring and enforcement of that guidance; and
- Lack of effective communication to the workforce and employers, including awareness of workplace rights.

85. It is worth noting that in several important areas the UK Government was responsible for NPIs in England only, including workplace regulations. The failure of the UK Government to recognise that in many areas its remit only covers England contributed to some of the inadequacies in its response to the pandemic.

Early engagement with the government on workplace safety guidance

86. Early in the pandemic, there was a distinct lack of guidance from the Government and HSE on how social distancing was to operate in workplaces. Evidence from the GMB illustrates the confusion across several sectors, including food manufacturing [Exhibit KB2/60 - INQ000119237], aviation [Exhibit KB2/61 - INQ000119238], construction [Exhibit KB2/62 - INQ000119239], transport [Exhibit KB2/63 - INQ000119240] and the waste sector [Exhibit KB2/64 - INQ000119241], with some employers simply choosing not to apply social distancing. The result was unions such as the GMB largely having to fill the gap in national guidance by formulating its own operating procedures and guidance and briefing workers and union representatives accordingly.

87. On the 30 March 2020, Frances O'Grady wrote to the Prime Minister (PM), copying in Michael Gove, Chancellor of the Duchy of Lancaster (CDL) and Alok Sharma, Secretary of State at BEIS [Exhibit KB2/65 - INQ000119242], setting out five key areas for action

that we thought the government should take to ensure safe working was embedded across business, sectors and industries:

- a) Strengthen government guidance on the safety measures to which all employers must give consideration.
- b) Regulate to require employers to undertake proper risk assessments in line with guidance and in consultation with union reps, accompanied by meaningful enforcement action and sanctions for those employers that are unwilling to comply.
- c) Establish a tripartite network, involving employers, unions and the HSE, with the power to instruct employers that refuse to take reasonably practicable safety measures to cease work.
- d) Ensure protection from detriment for workers with genuine concern of being exposed to Covid-19 risk.
- e) Urgent action on the provision of PPE – particularly to those workers who are subject to prolonged and direct exposure to the virus, such as health and social care professionals – followed by a wider roll out across all sectors of the economy.

88. This was followed up by a press release of 2 April 2020 calling for government to publish tough new rules about safety for businesses that are staying open – and to close them down if they did not comply [Exhibit KB2/254 - INQ000192225].

89. As described above, on 3 April 2020 the TUC produced a report '*Protecting workers' safety in the coronavirus pandemic*' [Exhibit KB2/59 - INQ000119236], which identified areas of poor as well as good practice that our unions had identified and repeated our call for action in the five areas set out in our letter to the PM and CDL.

90. When the government published specific guidance on 7 April 2020, there was no acknowledgment of the role that unions could play in managing workplace responses.

91. In a letter to Alok Sharma on 8 April 2020 [Exhibit KB2/66 - INQ000119243], Frances O'Grady set out the TUC's concerns, stating that:

- a) Trade unions, through the expertise and experience of their safety reps, have a key function in supporting risk assessments and communicating advice and guidance back to the workforce. Proper consultation with staff, supported by union reps, is the most effective way of promoting safety at work and gives the workforce confidence that they can trust in the measures put in place.

- b) As such, we think the guidance should include reference to the role of union safety reps, the need for workforce engagement and joint risk assessment. We would welcome a positive response to this and look forward to seeing this included in the guidance as soon as possible.

Revised guidance following the easing of the first lockdown

92. As we approached the easing of the first round of lockdown and with the prospect of thousands of workplaces re-opening, on 27 April 2020 the TUC published a report, 'Preparing for the return to work outside the home – A trade union approach' [Exhibit KB2/67 - INQ000119244], which set out the TUC's initial thinking on how the mass return to workplaces could be managed. Key features included:

- Every employer must carry out a specific Covid-19 risk assessment. Employers should work with unions and workers to assess the risks in the workplace, and set out specific steps, including enforcing social distancing, for how these can be mitigated and how work can be done safely. This plan must be signed off by one of the UK's 100,000 accredited trade union health and safety reps, or by a Health and Safety Executive (HSE) inspector.
- Personal protective equipment (PPE) must be provided where necessary, and no-one should be asked to re-use PPE inappropriately. Where risk assessments show that PPE is necessary, employers must provide this, and no-one, including Public Health England, should require health and social care workers to re-use PPE.
- Government must provide specific advice and protection for those groups most at risk. This includes workers advised to 'shield' and those who are pregnant. If these workers cannot work safely, their livelihoods must be protected. Black and ethnic minority workers have suffered disproportionate harm from the impact of the virus. The EHRC must ensure that the return-to-work strategy seeks to prevent this disproportionate impact and complies with the public sector equality duty.
- Unions should be consulted when the government prepares sector-specific guidance, and when employers seek to implement it.

93. At this time, BEIS embarked on an intense period of consultation with unions and employers on revised guidance for managing NPIs at work. This process was kickstarted with a phone call from Alok Sharma to Paul Nowak, Deputy General Secretary, TUC on 24 April 2020, followed by a series of hastily convened business engagement forums that took place over the weekend of 25 and 26 April 2020 through to 4 May 2020. The organisation and trade union composition of these forums is set out above.

94. The resulting draft guidance was presented to the TUC on the morning of Sunday, 3 May 2020, with a 12-hour deadline set for responses [Exhibit KB2/68 - INQ000119245]; [Exhibit KB2/69 - INQ000119246]. In a letter to Alok Sharma of 3 May 2020 [Exhibit KB2/70 - 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 [Exhibit KB2/71 - INQ000119248]. Key concerns raised in this correspondence included:

- a) The non-binding and voluntary approach taken to the expectations upon employers
- b) Ambiguity about the requirements in place for employers in relation to NPIs such as social distancing and hand sanitation
- c) No recommendations on provision of PPE
- d) No requirements to publish risk assessments, nor agree them with recognised unions
- e) No reference to the powers of the HSE or to workers' rights to refuse to work in unsafe conditions
- f) Ambiguity about the protections for vulnerable groups, including pregnant women

95. Responding in a letter of the same day [Exhibit KB2/72 - INQ000119249], Alok Sharma confirmed that there would be further collaborative engagement to ensure that workers had the confidence in a safe return to work. Frances O'Grady wrote again [Exhibit KB2/73 - INQ000119250] further setting out the measures we believed were critical to securing workforce confidence, including:

- a) Government should be clear that the legal requirement to conduct a risk assessment applies – and that employers should conduct a new coronavirus risk assessment in addition to their existing one. Unions and (where there is not yet a union) employees should be consulted in the production of these new risk assessments. These should be agreed with recognised unions.
- b) These risk assessments should be published, both on the employer's own website and on a government portal.
- c) There should be significant new money to support HSE guidance and enforcement.
- d) The maintenance of social distancing needs to be a mandatory element of a risk management approach – with a requirement to assess if tasks where social distancing cannot be put in place are necessary and if so to take all mitigating measures to ensure risk is minimised or to cease operations.

- e) The provision of appropriate PPE where a risk assessment identifies there is a need, along with appropriate hygiene and handwashing facilities in every workplace.
- f) A major public information campaign to ensure workers are aware of their rights under health and safety law, including their right not to work in places that constitute a threat to their safety. The campaign also needs to identify how workers' concerns about their workplace will be addressed – including a single hotline/website for reporting issues as they arise.
- g) The creation of a national enforcement forum of businesses, unions and government that will be able to advise and support the regulatory role of the HSE and local authorities, as well as a commitment to provide significant additional resources to the HSE and local authorities to support guidance and enforcement.
- h) Ensuring specific and continuing support from the Job Retention Scheme (JRS) for clinically extremely vulnerable and shielding workers, and those who have caring responsibilities for shielding workers.
- i) Ensuring the guidance is accurate with respect to the rights of those in clinically extremely vulnerable and shielding groups under health and safety and equality existing legislation.

96. On 10 May 2020, the Prime Minister announced the Government's plan and roadmap for the reopening of workplaces. The announcement was made with very little notice or consultation and, when combined with the paucity of guidance from HSE and the Government, resulted in confusion and uncertainty over the Covid-19 safety for workers, as seen in the GMB email correspondence of the same day [Exhibit KB2/74 - INQ000119251]. As a result, GMB had to move quickly to get its own guidance up and running on the implications of the announcement and the necessary measures to ensure workplace safety [Exhibit KB2/75 - INQ000119252].

97. On 11 May 2020, BEIS published its guidance on the return to work. The guidance failed to address a number of key issues that had previously been raised by unions. GMB expressed some of these concerns in its submission to BEIS on 14 May 2020 [Exhibit KB2/78 - INQ000119255]. The union highlighted that: the guidance was wholly inadequate on the provision of PPE, particularly where social distancing was not possible; there was insufficient detail on the need to risk assess higher-risk groups, such as BAME and disabled workers; the guidance did not explicitly state that the employer must perform the risk assessment, and implement the necessary control measures, before the return to work occurs; and there was no mention of maintaining standards and assuring performance.

98. In a meeting with BEIS Minister Paul Scully with unions on 13 May [Exhibit KB2/79 - INQ000119256], unions noted the government's commitment to continued consultation and review of the regulations, setting out the case for further action including:

- a) Proper resourcing for HSE to ensure effective regulation and enforcement.
- b) Signposting to good practice, so that businesses can learn from effective approaches and practical solutions being implemented in different organisations – using examples of cases where unions and employers had reached agreements on safe working practices in advance of the basic requirements of the guidance.
- c) Support for worker's travel to work and childcare needs. As well as specific support for vulnerable workers and those with protected characteristics, through effective risk assessments and equality impact assessments.
- d) Further clarity on the mandatory use of PPE where risk assessments identify the need.
- e) Potential deployment of union safety reps to support practical safety interventions in companies across the supply chain, which was already being undertaken by some large employers.
- f) Effective monitoring of how the guidance is being implemented in workplaces and the outcomes it is achieving in order to inform further revisions to the guidance.

99. These and other concerns were then raised by unions on a call with Sarah Munby, Permanent Secretary at BEIS on 19 May 2020 [Exhibit KB2/80 - INQ000119257]. This proved to largely be a listening exercise, with BEIS showing little appetite to take the unions' concerns on board and no interest in amending the guidance accordingly.

100. In practice, the BEIS guidance was often weaker than the existing sectoral agreements that had been reached. As a result, unions worked to ensure that employers maintained these higher standards [Exhibit KB2/81 - INQ000119258].

101. On 15 May 2020, 16 NHS trade unions set out their 'Blueprint for Return' and called on the UK Government and employers to work with the unions to implement the measures [Exhibit KB2/82 - INQ000119259]. Those measures included guaranteeing sufficient PPE for staff, ensuring proper risk assessments were carried out and extending the Covid-19 pay arrangements so that staff were paid properly for the hours they worked.

102. On 20 May 2020, Usdaw urged a number of changes to the BEIS guidance, particularly in relating to employers publishing and expanding workplace risk assessments, and also

guidance for when social distancing cannot be maintained. A response was also provided by CWU which raised some similar issues [Exhibit KB2/77 - INQ000119254].

103. The pattern continued throughout 2020, with unions continuing to express concerns about the strength and application of NPIs, particularly in relation to vulnerable workers. This included:

- a) A further version of the BEIS workplace guidance published on 23 July 2020 without consultation with trade unions. The TUC had real concerns over several aspects of the guidance, in particular the insufficient progress on specific risk assessments for vulnerable workers and the insufficient regulatory capacity (in HSE or Local Authorities) to meet an increase in demand for advice, guidance and enforcement [Exhibit KB2/83 - INQ000119260].
- b) The unions were consulted in relation to the November 2020 guidance update, recommending amendments to address insufficient guidance on effective ventilation, face coverings, social distancing, vulnerable workers (including BAME workers and pregnant women), amongst others [Exhibit KB2/84 - INQ000119261]; [Exhibit KB2/85 - INQ000119262].
- c) There were further discussions between the unions and BEIS in December 2020 following the end of England's November national restrictions, a focus of which was the revision of the Safer Workplaces guidance in light of the understanding of the importance of ventilation [Exhibit KB2/86 - INQ000119263]; [Exhibit KB2/87 - INQ000119264].

Third national lockdown

104. As England entered its third national lockdown, the TUC met with BEIS officials on 15 January 2021. With workplace infection at its peak, the TUC called for strengthening of guidance in relation to social distancing (reversing the relaxation of the 2-metre rule), ventilation, face masks, sick pay and test and trace [Exhibit KB2/88 - INQ000119265].

105. At a roundtable of unions with BEIS minister Paul Scully and Secretary of State Kwasi Kwarteng on 27 January 2021 [Exhibit KB2/89 - INQ000119266], Minister Scully confirmed that, in line with PHE and HSE recommendations, there would be no revisions to safe working guidance. Paul Nowak made the point that consultation with unions and employers on a sectoral basis should still be undertaken in addition to PHE and HSE's generic advice.

106. On 26 February 2021, BEIS emailed the TUC, among a range of stakeholders, stating that with the publication of the government's roadmap out of lockdown "*we wanted to take this opportunity to build on the collective input and insights shared by businesses, unions and representative organisations, which resulted in our COVID-Secure guidance, which was published in May 2020*" [Exhibit KB2/90 - INQ000119267]. In response, on 12 March 2021, the TUC submitted its proposals for revisions to the guidance, drawing on evidence from our biennial trade union safety reps survey [Exhibit KB/91 - INQ000119268].

107. In the TUC's proposal, we stated that "*unions are clear that the reopening of sections of the economy must not mean a relaxation of Covid-19 safety guidance in workplaces; on the contrary, effective workplace control measures will help keep transmission and infections low and support the reopening of businesses*". The submission also cited a recent poll from Britain Thinks, commissioned by the TUC, which showed that:

- a) Only 49% of workers said their employer had enabled social distancing in their workplace
- b) 47% said their employer provided adequate PPE
- c) Just 48% were confident their employer had carried out a Covid risk assessment

Of those who had not been in the workplace during 'lockdown', there remained a high level of concern about returning to work:

- 38% expressed concern about not being able to socially distance
- 24% were worried about not being able to distance from clients or customers
- 17% were concerned that they would not have access to the appropriate PPE

Workers expressed a higher level of concern this time than when the same questions were asked in July 2020, ahead of the reopening of particular workplaces.

108. On 2 April 2021, as we approached the first of the four steps towards the end of lockdown, the TUC published a report setting out its view on managing the return to work at the end or easing of lockdown in a way that supports worker safety and worker livelihoods [Exhibit KB2/92 - INQ000119269]. The TUC's priority was that any return to work outside the home was managed in a way that minimised the risk to individuals and that working people were not financially penalised or otherwise disadvantaged. Regarding the Government telling shielding workers that they should return to the workplace on 1 April 2021 if they could not work from home, the TUC called on the Government to:

- extend the shielding deadline until everyone in this group had the opportunity to get both doses of the vaccine;

- set a new date for the end of shielding that accorded with the roadmap for reopening, based on infection rates, hospital admissions and the other metrics used to determine other vital steps;
- guarantee that no shielding worker was forced to return to a workplace outside of their home before the end of restrictions and ensure that furlough and individual benefits were available to support this; and
- require employers to conduct individual risk assessments that took into account shielding workers' circumstances as they plan to return to workplaces.

109. In the same report the TUC again called upon employers to update their risk assessments, including to take account of what was then known about the importance of ventilation. The TUC observed that as England unlocked in summer 2020, more emphasis was placed on surface disinfection – but the guidance had since changed to make effective ventilation the priority. A TUC survey of more than 2,000 union safety representatives published that week revealed that one in four reps were unaware of a risk assessment taking place in their workplace in the last two years. That was despite it being a legal requirement for employers to have an up-to-date risk assessment and to consult safety reps and involve staff in writing it.

110. Ahead of lifting of nearly all Covid restrictions on 19 July 2021, a union roundtable with BEIS on the return to work took place on 7 July 2021 [Exhibit KB2/93 - INQ000119270]. BEIS set out the proposed approach, including the cessation of rules on social distancing and face coverings. It was confirmed that there would be no consultation on the soon to be published guidance [Exhibit KB2/94 - INQ000119271].

111. This meeting was followed up by a letter from Frances O'Grady to BEIS Secretary of State Kwasi Kwarteng on 8 July 2021 [Exhibit KB2/95 - INQ000119272] raising further concerns about the lack of consultation with unions and employers around revised safer working guidance and the specific issue of the removal of the legal requirement to wear facemasks in enclosed spaces.

112. Meanwhile, in July 2021, the Royal College of Midwives called for the public and employers to exercise caution following the lifting of Covid-19 restrictions. They highlighted the pressures on the NHS, the potential risk of further increase in infections among pregnant women and the knock-on effect that might have on the capability of maternity services [Exhibit KB2/255 - INQ000192226] [Exhibit KB2/256 - INQ000192227] [Exhibit KB2/257 - INQ000192228].

113. The views of unions were sought in relation to the guidance in September 2021, with a view to informing any further evolution of the guidance over the following weeks [Exhibit KB2/96 - INQ000119273]. The extant guidance was at that point significantly better than when originally published in May 2020, however many of the issues previously raised by unions still remained and it was still considered to be woefully lacking in several areas.
114. In the document '*TUC Feedback to BEIS Covid Guidance September 2021*' of 27 September 2021, the TUC set out a number of continued concerns around enforcement, risk management, the role of safety reps, social distancing, workplace testing, face masks, ventilation, sick pay, workplace temperatures, ventilation and support for vulnerable workers [Exhibit KB2/97 - INQ000119274].

Sector-specific guidance

115. In addition to the work undertaken with BEIS on generic workplace safety, unions were engaged with government and employers on developing guidance for specific industries and sectors. The following paragraphs illustrate some of this work, highlighting both problematic areas but also those where progress was made, often with employers' and industry organisations at the sectoral level.

Construction

116. With construction sites largely remaining open, the industry was quick to issue guidance through the Site Operating Procedures (SOP) developed by the Construction Leadership Council (CLC). Versions 1 and 2 of this guidance provided clear and unambiguous requirements about social distancing on site, supported by Unite representing members in the construction industry. However, Version 2 was quickly removed and subsequent versions of the SOP caused significant concern regarding revisions to the guidance on social distancing, PPE and travel to work.
117. On the 22 April 2020, Unite raised concerns regarding the watering down of guidance for working safely, including the use of PPE, in the construction industry in a letter to Minister for Business Alok Sharma regarding the Site Operating Procedures (SOP) [Exhibit KB2/98 - INQ000119275]. This stated that although two versions previously had been produced - which Unite had largely been satisfied with - the second was withdrawn within hours "*for reasons that have never satisfactorily been explained*". In the letter Unite stated that "*Version 3 is a dangerous relaxation, which appears to be designed to ensure the sector continues to work rather than ensure workers safety. The advice on social distancing will create confusion and very real concern. The Government's strongly stated*

and consistent advice on social distancing fully applies to parks, shops and all other areas where people may come into contact but not on construction sites. Any failure to ensure social distancing on construction sites will put construction workers at risk and aid the spread of the virus."

118. The same letter highlighted the confusion that guidance on PPE was causing in the construction industry stating *"Our members are disturbed on the confusion around personal protective equipment. We hear daily that consideration is being given to mask wearing in public and yet construction workers are told to abandon the use of respiratory protective equipment with Version 3 of the SOPs which states that sites should not use RPE [respiratory protective equipment] for Coronavirus (Covid-19) where the two metre social distancing guidelines are met. Our members are worried for their health if the use of RPE is dispensed with in site situations where workers are more than 2m apart. As construction workers are often required to move from one area to another on site would you not agree that a mask could help in preventing the spread of the virus?"* Alok Sharma never responded, which led to Unite having to engage with the Construction Leadership Council, a delay that could have been avoided had government engaged fully with the issue and tackled its root cause.
119. In response, in a letter of 6 May 2020 [Exhibit KB2/99 - INQ000119276] Business Minister Nadhim Zahawi argued that the revised guidance was informed with industry input and reflected PHE guidance on social distancing, while confirming that England did not require mask wearing on site.
120. In letters to the Construction Leadership Council of 26 May 2020 [Exhibit KB2/100 - INQ000119031] and 10 June 2020 [Exhibit KB2/101 - INQ000119032], Unite continued to press the case for the mandatory use of PPE, including face coverings, to be incorporated within the latest versions of the SOP. The correspondence called on the CLC to show industry leadership, to include best practice within the SOP and to go further than PHE basic requirements, particularly given the PHE's own admission that its guidance is generic and did not include occupational health. By June 2020, the UK government had stipulated the use of face masks on public transport and the WHO had also recognised the benefits of face covering, in contrast with the construction industry's own guidance.
121. On 19 July 2021, the Construction Leadership Council issued revised guidance [Exhibit KB2/102 - INQ000119033] that stated: *"Where workers on site are not required to wear Respiratory Protective Equipment (RPE) and their workplace (which may include welfare and changing facilities, site offices or site meeting rooms) is crowded and enclosed and they come into contact with others they do not normally meet, their employer should*

make face coverings available and it is expected and recommended that they should be worn.” This remained an encouragement to employers, not a mandatory requirement and the definition of face coverings still fell short of ‘surgical face masks’.

Transport

122. LGV drivers are required to undergo medicals periodically in order to retain their licence. In April 2020, GMB was made aware of a developing issue where LGV drivers were unable to obtain GP appointments and therefore potentially be unable to drive. The implications of this on distribution, NHS logistics, manufacturing and the supply chain were clear. This was raised with the Department for Transport (DfT) who were unable to provide a clear answer and admitted they were struggling with the legal aspects [Exhibit KB2/103 - INQ000119034].
123. On a 23 April 2020 roundtable call between DfT, PHE and transport unions, GMB flagged that there had been no guidance from HSE on the use of PPE in the transport sector to control Covid-19 risk, so employers and unions were having to develop their own, leading to confusion and non-compliance [Exhibit KB2/104 - INQ000119035]. There was no HSE or Office of Rail and Road presence on the call so Dr Ruth Milton of PHE committed to raise the issue with HSE.
124. On 7 May 2020 the RMT published the results of a survey of bus workers showing that 1 in 5 had been issued with no PPE by their employers and only half had a screen fitted in their cabs. RMT called for a National Bus Safety Summit to oversee a national plan for bus safety but this was never agreed to by government [Exhibit KB2/258 - INQ000192229].
125. Unions were trying to ensure the government were presented with options to ensure sector leaders and workforce representatives could work together to ensure sectoral compliance with government guidance but these offers were often dismissed. For example, the RMT wrote to Transport Secretary Grant Shapps on 6 April 2020 [Exhibit KB2/105 - INQ000119036] highlighting the different approach of the bus sector to the Rail Industry Coronavirus forum on rail saying *“whilst the rail industry is at least seeking to adopt a joined up approach to the Coronavirus crisis the national bus industry in contrast is a complete free for all and the RMT is calling on the Government to use this national funding to also enforce a national charter of protection for bus workers and bus passengers as part of the fight against the spread of Covid-19. Given the funding announcement, and the vital importance of our bus networks, I am disappointed that, despite multiple requests to do so, the DfT has not yet initiated sectoral discussions for the local transport sector.”* When the response came over a month later on 27 May 2020 [Exhibit KB2/106 -

INQ000119037], Grant Shapps replied describing transport workers as “true heroes” but ignoring the call for a forum in favour of his view that “transport organisations are best placed” to translate government guidance properly. That was an abdication of government responsibility.

126. Despite evidence of the impact on public transport workers, the DfT were reluctant to update guidance on mandatory facemask wearing on public transport. In a meeting with unions on 18 May 2020 [Exhibit KB2/107 - INQ000119216], the Secretary of State for Transport Grant Shapps argued that mandatory PPE and mask-wearing on public transport was not necessary and that social distancing and handwashing were more effective in dealing with transmission. Mask wearing on public transport did not become a requirement until a month later on 15 June 2020 – by which time 44 public transport workers had died from Covid-19 in London alone, over three quarters of those on London buses.

127. On 2 February 2021 the RMT wrote to Bus Minister Baroness Vere [Exhibit KB2/108 - INQ000119039] to urge a coordinated approach to safe bus operation. This followed the results of a survey of bus workers which revealed a “wild west” approach to safety with overwhelming numbers reporting that their employers were not implementing safety measures adequately [Exhibit KB2/259 - INQ000192230]. The letter stated “*In the rail sector, a joint approach to Covid-19 between the Government, unions and employers, via the Rail Industry Coronavirus Forum, is now well established. RMT has long called for the same industry-wide approach to be taken in the bus sector and believes that this is vital to ensuring that consistent action is taken to protect bus workers across the UK from the risks of Covid-19. It is therefore disappointing that the Government has continued to refuse to take such an approach in the bus industry*”. The call to convene an industry forum was ignored or resisted by government in favour of a series of ad-hoc roundtables, in contrast to the structured weekly high-level meetings of the Rail Industry Coronavirus Forum. Consequently, bus workers had to operate in a far more fragmented and disjointed working environment and unions were forced to deal directly with individual operators with varying responses that in some cases put their employees lives at greater risk. ONS statistics collected between 9 March and 28 December 2020 show that levels of Covid-related mortality among bus and coach drivers outstripped those of other transport workers, with the exception of taxi and PHV drivers [Exhibit KB2/109 - INQ000119040].

128. Similar concerns were outlined by unions in the aviation sector. Speaking on behalf of unions working with the DfT on aviation guidance, Shelly Asquith of the TUC set out a number of specific concerns in an email of 27 April 2020 – most notably the need to flag

mandatory risk assessment and consultation with unions [Exhibit KB2/110 - INQ000119042].

Retail

129. Some unions worked to supplement Government guidance with more practical guidance as to how NPIs should be implemented in the workplace. For example, on 24 April 2020, Usdaw with the British Retail Consortium (BRC) published a guide for non-food retailers on how to implement Government advice in respect of social distancing, in preparation for non-essential retail stores reopening [Exhibit KB2/111 - INQ000119043].
130. Some consideration was given within the Retail Sector Council. The Council was co-chaired by Paul Scully, the BEIS Minister with responsibility for retail. Usdaw was represented on the Council. Other organisations who also sat on the Council include the BRC, the British Independent Retailers Association, the Association of Convenience Stores, Amazon UK, Asda and Ikea. A number of online meetings were held with BEIS civil servants co-ordinating the work of the Retail Sector Council. Following the publication of the joint BRC/Usdaw guidance on reopening non-food retail, there were a number of discussions with the BRC and Government over developing advice to non-food retailers. Similar dialogue took place in Scotland, Wales and Northern Ireland with the BRC/Usdaw guidance being used as the starting point for these discussions.
131. A further version of the Usdaw and BRC guidance was published on 4 June 2020, which recommended implementation practices for non-food retail stores [Exhibit KB2/112 - INQ000119044].
132. In Scotland, Usdaw was heavily involved in drafting the guidance around face coverings. In England, the announcement on face coverings came after significant delay and mixed messages from Government. Following the announcement, Usdaw immediately called for the Government to fully consult with retailers and the union on the guidance for face coverings [Exhibit KB2/260 - INQ000192231]. Unfortunately, the Government refused to undertake broad consultation on the issue.
133. This continued to be an issue and in January 2021 Usdaw wrote to Matt Hancock, Secretary of State for Health and Social Care, and Alok Sharma, Secretary of State for Business, Energy and Industrial Strategy, raising concerns over the new strain of coronavirus and its impact on their members [Exhibit KB2/261 - INQ000192232]. The union called on the Government to place more emphasis on the need for social distancing rules to be more strictly implemented and respected in shops and supermarkets. In particular, they called for strict limits on the number of customers in store, for the police to

play a greater role in enforcement of face coverings in retail outlets, customers to be reminded to shop alone where possible and for one-way systems to be re-introduced.

134. Ahead of the re-opening in April 2021 of non-essential retail, Usdaw made representations to the Government on updating Government Safer Working Guidance for Shops and Branches [Exhibit KB2/113 - INQ000119045]. Usdaw raised the need for clarity about the requirement to wear face coverings, the need for practical advice on security provisions and clear guidance on 2 metre social distancing. The union also called for clear guidance on maternity suspension and encouragement for employers to pay staff in full for any Covid related absence. Unfortunately, these points were not included in the guidance, however the union continued to raise the issues with politicians and employers.

135. On 5 July 2021 the Prime Minister announced that the requirement for face coverings and social distancing in retail stores would be withdrawn. Usdaw wrote to the Secretary of State for BEIS [Exhibit KB2/114 - INQ000119046] expressing its deep concern:

Face coverings and social distancing have been key measures protecting workers across the retail sector. These measures have clearly been highlighted within risk assessments that Usdaw has conducted in partnership with many retailers. Wearing a face covering and adhering to social distancing in crowded places are not merely personal choices, but an important aspect of protecting other people. Retail workers are required to interact with large numbers of people as part of their job. To protect this workforce from the risk of infection and requirement to self-isolate, the Government must maintain the requirement for face coverings and social distancing. Whilst retailers may be able to attempt to enforce their own face covering policies, in the absence of a legal requirement, as has already been highlighted by the British Retail Consortium, this is likely to result in further significant increases in abuse, threats and violence towards retail workers. Despite having to deal with an horrific increase in violence and abuse, these key workers have continued to attend work and support the country throughout the crisis. It would be a shameful act for the Government to let them down at this time. We are aware that BEIS is currently preparing workplace guidance ahead of changes to restrictions coming into effect from 19 July. We believe that this guidance, and the Government's public facing statements, must be clear, that face coverings and social distancing protect others, including public facing workers, and are key measures in stopping the spread of infection. Furthermore, we implore the Government to reverse its decision and retain the requirement for face coverings and social distancing across retail. It is essential that the Government guidance highlights

the importance of ventilation, regular cleaning, and adequate sick pay as key methods of tackling rising levels of infection.

136. The government re-introduced the requirement to wear face masks in December 2021 as a result of the spike in transmission through the Omicron variant. On 16 December 2021, Usdaw wrote to the Prime Minister expressing concern as to the rapid spread of the omicron variant and the need for the Government to urgently update workplace guidance and introduce adequate social distancing and safety measures, which Usdaw described as “A key tool ... particularly within retail, where workers are required to interact with the general public every day” [Exhibit KB2/115 - INQ000119047].

Education

137. On 3 April 2020, GMB wrote to Gavin Williamson, the Education Secretary at the time, expressing dismay at the “*dangerously contradictory and confusing*” DfE guidance for staff working in schools [Exhibit KB2/116 - INQ000119048]; [Exhibit KB2/117 - INQ000119051]. GMB explained that there was insufficient hand sanitiser in school, so good hand hygiene could not be routinely practised, school infrastructure was undermining efforts to socially distance, there was a lack of PPE and staff who lived with vulnerable people were still being expected to work despite not having the facilities to shield at home.
138. Despite the serious nature of these concerns, GMB did not receive a formal reply from the DfE until 18 June 2020, over two months later [Exhibit KB2/118 - INQ000119052]. The response did not address GMB’s concerns in any detail, instead pointing to the published guidance for schools on implementing protective measures to support staff to plan for a phased wider opening of schools.
139. At the end of August 2020, NEU agreed that a return to full-time education would benefit children’s education and well-being but it called for guidance on contingency planning to be published to allow education to continue if infection rates rose again, which of course they did [Exhibit KB2/262 - INQ000192233]. NEU called for more teachers, more space, guidance for planning for rotas where needed and protection for high-risk staff. In October 2020, in the face of sharply rising infection rates amongst secondary age pupils, NEU called for an urgent two-week circuit breaker and for Government to be more proactive in working with schools to plan for and prevent future disruption [Exhibit KB2/263 - INQ000192234]. The lack of engagement by and guidance from Government, despite consistent calls from unions such as NEU, helped pave the way for the chaos in education of late 2020 and early 2021.

140. In June 2021, UNISON, GMB, Unite and NEU issued a joint statement calling on the Government to reinstate face coverings in schools to limit the spread of the virus [Exhibit KB2/264 - INQ000192235]. They also called for resources to be made available to schools with poor ventilation to be able to purchase carbon dioxide monitors and air filters, and for an urgent review of the guidance on bubbles and the isolation of contacts. NEU raised similar issues again in July 2021 [Exhibit KB2/119 - INQ000119053] when further restrictions were relaxed, calling for an explanation. The DfE did eventually issue guidance that masks should be worn by adults and children in Year 7 and above and in communal areas, as well as later providing resource to help schools purchase DfE-recommended ventilation units. However, NEU was still calling for further mitigations related to the same issues to be put in place in schools and colleges as late as December 2021 [Exhibit KB2/265 - INQ000192236].

Food processing

141. There were a number of outbreaks associated with food manufacturing plants across the UK. For example, concerns arose in relation to the operations of Bakkavor – a sandwich maker for large stores such as M&S employing 23,000 people at 23 factories. Two employees died at a factory near Dover in Kent and around 100 workers tested positive following an outbreak. The GMB called upon the company to offer fully pay to anyone taking covid-related absence (rather than statutory sick pay), mass testing for staff, and to perform a deep clean at the factory. The company only agreed to ask staff to wear face masks after pressure from the GMB [Exhibit KB2/248 – INQ000119200]. In April 2020, an operations manager at a factory admitted (in a secret recording) that social distancing was not possible, and threatened to fire anyone who was not ill and stayed at home and “*people who don’t bother to get to work, get out.*” Staff reported being worried about their health at work, but under pressure to come in.

142. In August 2020 there was a call for workers at Banham Poultry factor in Norfolk to receive more than statutory sick pay amidst 75 staff having tested positive. As with many other sectors with a workforce that is often poorly paid, many were limited to statutory sick pay when self-isolating. That had the inevitable consequence that some workers that should have been self-isolating felt compelled given the financial consequences to continue to work. Although the limited statutory sick pay was frequently a problem, the coronavirus job retention scheme did, in fact, allow employers to temporarily furlough workers if they required to self-isolated, but government communication of the scheme was poor, if not deliberately suppressed.

143. In a meeting with DEFRA, the HSE and the Food Standards Agency, unions in the food and drink sector identified the heightened risk factor that lay behind some of the outbreaks seen in that sector, including [Exhibit KB2/43 - INQ000119220]:

- a) Poor quality and restricted PPE, cold ambient areas and metal surfaces spreading the virus and some poor employment practices, with bad employers not taking appropriate measures.
- b) Asymptomatic workers with positive tests were still going in to work as they did not get full sick pay – so can't afford to take time off work.
- c) Social distancing had been compromised by plants not being able to slow production lines down.
- d) Good employers had managed outbreaks better through full sick pay and closed production lines.

Fire and rescue services

144. The Fire Brigades Union (FBU), the fire and rescue service National Employers and the National Fire Chiefs Council (NFCC) (a charity/company of chief fire officers, with close links to the Home Office and the Cabinet Office) entered into a unique UK-wide tripartite agreement on 24 March 2020 [Exhibit KB2/120 - INQ000119055]. This reduced non-essential activities before the first UK-wide lockdown and implemented an agreed approach to managing additional activities taken on by fire and rescue services the day after the first lockdown commenced (including ambulance service assistance and the delivery of essential items to vulnerable persons). Throughout 2020 the national agreement was expanded, with more activities authorised (including delivery of PPE, face-fitting for masks to be used by frontline NHS and clinical care staff and the assembly of single-use face shields for the NHS and care workers), risk assessments produced and safety measures put in place to protect firefighters and the public. The agreement also stated from the beginning that additional activities would be voluntary and that no activity would be undertaken unless minimum safety requirements for risk assessment, control measures, training and PPE were met. A small number of chief officers failed to implement these health and safety control measures and the NFCC could have done more, by insisting the control measures were necessary to comply with health and safety law and keep firefighters safe. Nevertheless, the agreement was, on the whole, successful in protecting the health and safety of firefighters, while securing both the core duties of the fire and rescue service and the additional activities during the pandemic. It showed the benefits of collective bargaining, communication and negotiation with unions and specifically the role of the FBU.

145. However, in November 2020, just as the second lockdown began, the NFCC withdrew from the agreement. The FBU and the National Employers therefore formed a new bilateral agreement, with plans to expand the additional activities. Then, in January 2021, without any prior warning to firefighters or the FBU, the National Employers unilaterally walked away from the bilateral agreement. As Frances O'Grady put it at the time, "*By turning their back on the national safety agreement, employers and fire chiefs are turning their back on us all*" [Exhibit KB2/266 - INQ000192237]. As a result, the FBU instead took the initiative to form temporary, local agreements itself with fire and rescue services.

Living with Covid

146. On 7 March 2022, the TUC wrote to the Secretary of State Kwasi Kwarteng [Exhibit KB2/121 - INQ000119056] following the publication of the government's *Living With Covid* guidance of February 2022. In our letter we raised concerns regarding the paragraph 60 of the guidance advising employers that there will no longer be a requirement to consider Covid-19 in workplace risk assessments: "*Remove the health and safety requirement for every employer to explicitly consider COVID-19 in their risk assessments.*" We raised how this advice contradicted employers' existing duties to assess all risks to employers and other persons' health and safety and to consult the workforce on changes to safety management.

Self-isolation and sick pay

147. The UK government relied upon self-isolation as a central part of its response to the pandemic. However, the effectiveness of self-isolation was hampered by the availability of adequate financial support for the very many who have limited or no right to adequate sick pay.

148. The TUC had been concerned about the eligibility for and level of statutory sick pay ('SSP') for long before the pandemic. In 2020/21, an employee could not be eligible for SSP unless earning, on average, £120 per week (the 'lower earnings limit'). That caused around 1.8million employees to miss out, and 7 out of 10 of those were women. It also particularly impacted young workers, those on zero-hour contracts, and certain

occupations. The level of SSP was also low, at £95.85. The average worker would therefore see their weekly income fall from £504 to just under £95.85.¹

149. It appeared that the concern had also partly been shared by the UK Government. In November 2019 the UK Government had consulted on removing the lower earnings limit from sick-pay, in a consultation: *'Health is everyone's business: proposals to reduce ill health-related jobs'*. It had been stated in the consultation document that "*The government is concerned that employees on lower incomes are missing out on the protection that SSP provides. People may be working when unwell, or relying on the benefit system, when remaining attached to their employer is likely to be more beneficial. The Taylor Review of Modern Working Practices recommended extending SSP to include those earning below the LEL. This would extend SSP protection to around 2m employees, including over 1m who work less than 16 hours per week. The government believes there is a case to accept this recommendation.*" However, in October 2021, and notwithstanding the particularly acute difficulties that arose during the pandemic, the UK Government published its response to the consultation, in which it expressed the view that "*now is not the right time to introduce changes to the sick pay system*" [Exhibit KB2/267 - INQ000192238].

150. The reality for many in low-paid and insecure work was that self-isolating in accordance with government guidance would leave them without the money upon which to support themselves and their families.

151. The TUC therefore continued to press the case for reform to sick pay to ensure it was accessible to all workers, through the removal of the lower earnings limit and set at a rate that enabled people to live. Throughout this period, we had regular dialogue with civil servants in the DWP and HM Treasury through meetings and phone calls, discussing the need for reform (these discussions are undocumented). But in addition to this regular contact with civil servants, the TUC and our member unions produced reports, submitted letters to ministers and issued press releases, which we detail below.

152. On 3 March 2020, the TUC called on the UK Government to respond to the pandemic by providing emergency support for the millions of UK workers who were ineligible for Statutory Sick Pay ("SSP") [Exhibit KB2/268 - INQ000192239]. Frances O'Grady, had written to UK ministers warning that inadequate provision of sick pay could stop people taking public health advice, and some may feel they have no choice but to go to work. The

¹ As reported in our report, *Sick pay and debt* (10th September 2020) [Exhibit KB2/139 – INQ000119080]

TUC published the report, '*Sick pay for all – How the Corona Virus has shown we need urgent reform of the sick pay system*' [Exhibit KB2/122 - INQ000119057].

153. The report pointed to the fact that the earnings threshold for statutory sick pay disproportionality impacted women, those in insecure work, and young and older workers, who were more likely to be without sick pay. Further, the rate of statutory sick pay (at £94.25) was low, and amongst the lowest compared with European counterparts. It also expressed the TUC view that workers should be treated as suspended from work when required to self-isolate such that they can receive full pay, and that it was vital that those required to self-isolate could access statutory sick pay.

154. The absence of adequate sick pay carried significant risks in the social care sector. It also had implications for the effectiveness of the emerging testing regime, with care workers being reluctant to be tested, as they feared the potential loss of earnings if test results were positive. UNISON reported that the various inadequacies of SSP in the both the residential care and domiciliary home care sectors was a barrier to effective infection control. Later Government attempts to address this and other social care issues through the Infection Control Fund were inadequate and reported to DHSC officials at various stakeholder meetings.² The sector with tens of thousands of different employers was not well understood by both officials and ministers and as a result of this fragmentation interventions were slow to formulate and then to permeate. For example, many care home employers refused to take government money offered through the Infection Control Fund (held at local authority level on behalf of DHSC) to boost sick pay for staff for fear that this would set a precedent and expectation of sick above the statutory minimum after the pandemic receded.

155. Adequate sick pay was relevant not just to enable self-isolation, but also as a matter of fairness to many workers who were keeping the country going whilst putting themselves at risk. For example, many Usdaw members throughout the food, retail and pharmaceutical supply chains were at the forefront of the nation's response. In its March 2020 response to the Treasury Committee Call for evidence on the Government's Coronavirus Final Package, Usdaw highlighted the hard work of those individuals, at a

² I exhibit notes of a number of these meetings held between June and December 2020 [Exhibit KB2/123 - INQ000119058]; [Exhibit KB2/124 - INQ000119060]; [Exhibit KB2/125 - INQ000119061]; [Exhibit KB2/126 - INQ000119062]; [Exhibit KB2/127 - INQ000119063]; [Exhibit KB2/128 - INQ000119064]; [Exhibit KB2/129 - INQ000119066]; [Exhibit KB2/130 - INQ000119068]; [Exhibit KB2/131 - INQ000119070]; [Exhibit KB2/132 - INQ000119072]; [Exhibit KB2/133 - INQ000119073]; [Exhibit KB2/134 - INQ000119075]; [Exhibit KB2/135 - INQ000119076]; [Exhibit KB2/136 - INQ000119077]; [Exhibit KB2/137 - INQ000119078].

heightened risk of infection, and the unfairness of expecting them to live off inadequate sick pay if they fell ill to Covid-19 as a result [Exhibit KB2/138 - INQ000119079].

156. In the budget of 11 March 2020, the Chancellor confirmed the removal of the three-day waiting period for sick pay in cases of coronavirus, but the problems of its low rate and many being ineligible remained. The Chancellor suggested that those without sick pay could turn to the benefit system instead, but that was wholly unrealistic, including because of the five-week wait for the main benefit and the low rate of Employment and Support Allowance at £73.10 per week.³ The point was raised again in the TUC's March 2020 report *'Protecting workers' jobs and livelihoods - the economic response to the coronavirus'* [Exhibit KB2/21 - INQ000119158], which called upon the Government to act immediately by removing the lower earnings limit for qualification for statutory sick pay, and increasing the level of statutory sick pay. It was raised yet again by the TUC in our report of 23 March 2020, *'Fixing the safety net: What next on supporting working people's incomes?'* [Exhibit KB2/269 - INQ000192240].

157. On Thursday, 19 March 2020, under questioning from the TUC's Frances O'Grady on BBC1's Question Time, the Health Secretary Matt Hancock himself admitted that he could not live on the £94.25 a week SSP.

158. The UK government did introduce a pilot scheme for low paid workers in which it would pay £13 a day to employees or self-employed workers told to isolate, but it only applied in areas in local lockdown and where the worker was receiving universal credit or working tax credit, and so it did not reach enough people, and did not pay enough.

159. On 10 September 2020 the TUC published its report on sick pay and debt which raised similar concerns [Exhibit KB2/139 - INQ000119080]. It reported the result of a BritainThinks survey, carried out on behalf of the TUC, which found that almost a quarter of workers received only basic SSP when off work, equating to around 6.4 million employees. The TUC also pointed to a number of disparities in the impact of low levels of eligibility for SSP. The TUC said:

³ Usdaw's submission to the BEIS select committee on the impact of coronavirus on business and workers reported in June 2020 that an Usdaw survey showed 94% of those attempting to claim Universal Credit had had difficulty with the claims process, with the five-week wait to receive the first payment causing severe financial problems [Exhibit KB2/247 - INQ000119199].

... stopping the spread of coronavirus heavily relies upon people isolating when they have the virus. Current guidance says that those with coronavirus symptoms must self-isolate for ten days, and those who have been in contact with someone with symptoms must isolate for two weeks. The current level of SSP, however, may discourage those with symptoms from self-isolating. Living off just SSP for two weeks will push many people into financial hardship. Over 4-in-10 workers (43 per cent) told us that they would have to go into debt or not pay bills if their income dropped down to £96 per week for two weeks. Concerningly, those who have been working outside their home are more likely than those working from home to say they'd fall into debt or not pay bills if they had to live off SSP for two weeks (47 per cent compared to 37 per cent). Those on low and average incomes are also more likely than high earners to be unable to cope on SSP without being pushed into debt. Half of those earning less than £15,000 per year and around half (47 per cent) of those earning between £15,000 and £29,000 say they'd be unable to get by without going into debt, compared to around a third (32 per cent) of those earning more than £50,000 per year.

160. From 28 September 2020 some people in England on low incomes 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. However, in a February 2021 TUC-published report, '*Sick pay that works – TUC report on the urgent need for reform*' [Exhibit KB2/140 - INQ000119082] the TUC highlighted the inadequacies of the Test and Trace Support Payment scheme. Freedom of information requests revealed that 70% of applications were being rejected by local authorities. There was both a mandatory and discretionary scheme, and only 10% or fewer of applications under the discretionary scheme were being granted. As the TUC stated: "*Our findings shows that the scheme is failing to financially support workers who have been required to self-isolate. This is for two reasons: the eligibility criteria for the main payment means that many workers miss out; and the lack of funding for the discretionary scheme means most applicants are rejected*". This research was repeated in May 2021 and the TUC found that there had been almost no improvement in the rejection rate, whilst only a fifth of workers had heard of the scheme [Exhibit KB2/270 - INQ000192241].

161. Unions also continued to press the case for targeted interventions to ensure that vulnerable groups of workers were able to self-isolate in compliance with the guidance, as illustrated in the following paragraphs.

162. On 26 October 2020, the TUC, Maternity Action, RCM and RCOG jointly wrote to Rishi Sunak, the Chancellor of the Exchequer at the time, urging a revision to the Job Support Scheme to enable employers to reclaim 100% of the cost of a maternity suspension on full pay, ensuring that pregnant women would not be sent home on just sick pay or unpaid leave [Exhibit KB2/141 - INQ000119083].
163. On 8 January 2021, GMB wrote to Rishi Sunak, then Chancellor, regarding the expiration of Cabinet Office supplier relief guidance to contracting authorities [Exhibit KB2/142 - INQ000119084]. Procurement Policy Notes 02/20 and 04/20 were instrumental in ensuring that suppliers received continuity payment, which in turn meant that staff working in hospitals, schools, job centres, prisons and other public sector jobs would receive full pay for Covid-19 related absences. GMB expressed concerns that, following the expiry of the supplier relief, some contractors had ceased to pay staff working in hospitals for Covid-19 related absences, forcing many to attend work against Government advice. GMB called for the guidance to be reinstated with immediate effect.
164. On 16 April 2021 the TUC published a report, '*Covid-19 and Insecure Work*' [Exhibit KB2/143 - INQ000119085]. It described again how the system for SSP was failing workers, and particular those in insecure work. The report observed that insecure workers were nearly 10 times more likely to say they receive no sick pay compared to secure workers. It provided a stark example of how inadequate employment protections compel insecure workers to continue working throughout the pandemic.
165. In June 2021 the TUC published an analysis reporting that a third of key workers said they did not get sick pay [Exhibit KB2/271 - INQ000192242]. In December 2021 it was the TUC's analysis that 647,000 festive works would not be eligible for any sick pay [Exhibit KB2/272 - INQ000192243].
166. Before self-isolation rules were relaxed for fully vaccinated people, the Government attempted to address concerns about staff shortages by offering early exemption from self-isolation for critical workers. This scheme was announced to the media without consultation with unions and without any full details being published simultaneously or in advance of the announcement. This created unnecessary confusion amongst employers and employees. The Government's mishandling of the exemption scheme resulted in a position that put people's health, and the functioning of the economy, at significant risk. Usdaw wrote to the Prime Minister to express concerns about this and the Government's

wider mishandling of the pandemic [Exhibit KB2/144 - INQ000119086]. Many of the issues raised in the letter remain areas of ongoing concern.

167. Ultimately, self-isolation was a key part of the response to the pandemic, but, despite repeated and stark warnings, the limited action failed to address the problem of financial hardship faced by many who self-isolated. It should be one of the lessons learned from the pandemic, and it is still an ongoing issue, with workers attending the workplace when Covid-19 positive as they cannot afford the loss of income from moving to SSP. An effective system for SSP must be put in place, without delay and before the next pandemic hits.

PPE

168. It is well known that for a significant part of the pandemic there were severe shortages in the availability of adequate PPE. In our 3 April 2020 report, *'Protecting workers' safety in the coronavirus pandemic'* [Exhibit KB2/59 - INQ000119236] the TUC stated that: *"We need urgent action now on the provision of PPE – particularly to those workers who are subject to prolonged and direct exposure to the virus, such as health and social care professionals - followed by a wider roll out across all sectors of the economy. This should include transparency and detail on procurement, distribution, timescales and exactly how and when workers can expect to get the protection they need and deserve. Government must utilise the skills of the UK manufacturers to urgently increase supply – with clear systems in place for employers to report shortages and shortfalls. And we call on the government and employers to guarantee that no member of staff will be put under pressure to perform tasks without adequate protective equipment."*

169. For the purposes of this statement, I provide evidence as to concerns raised by unions as to shortages in the healthcare and social care sector, the arrangements for sourcing PPE, and guidance on the use of PPE across sectors.

PPE in the health care sector:

170. There was cause for unions to raise the adequate availability of PPE across the health care sector on several occasions and there was acknowledgement from the Government that most hospitals were close to running out of supply as early as 19th March 2020, four days before the country entered into lockdown. Nearly two months later alarm bells were still being sounded by unions as to the dire lack of PPE across hospitals.

171. Concerns raised as to the availability of PPE and guidance in the health care sector included:

- (a) In a meeting of the SPF on 19 March 2020 it was acknowledged that there had been significant problems with PPE and that most hospitals were close to running out of supply [Exhibit KB2/145 - **INQ000119025**]
- (b) The HCSA wrote to the Secretary of State for Health, also on 19 March 2020, [Exhibit KB2/146 - INQ000119088] reporting that hospitals *"across the country have been unable to access sufficient capacity for PPE"* and that it was hearing examples of doctors being asked to apply lesser standards than recommended by PHE.
- (c) On 26 March 2020 the HCSA wrote to PHE stating [Exhibit KB2/147 - INQ000119089]: *Covid-19 has arrived in the UK. With the evidence supporting asymptomatic virus transmission, and without the sufficient testing capability of either antigen or antibody, it is not possible to identify accurately all Covid-19 patients. The social distancing being undertaken by the government of our nation assumes that everyone is a potential carrier, yet we do not practice social distancing within our hospitals, nor are we adequately protecting our staff with the current guidance. We request that you mandate full PPE of appropriate standard according to category A infections for staff in all Covid-19 positive areas, Emergency Departments, theatres, radiology, wards and Intensive care."*
- (d) On 29 March 2020, GMB sent a letter to PHE highlighting a lack of consistent messaging and guidance [Exhibit KB2/148 - INQ000119090]. They referred to advice issued on a PHE poster that was resulting in senior nurses and managers telling staff caring for Covid-19 patients that they did not need to wear FFP3 masks. The poster also informed staff that they only needed to 'gown up' for Covid-19 patients who were on high flow oxygen. As a result, managers were informing staff that they did not need to wear gowns, masks or visors and less experienced staff were often nursing patients in latex gloves, a plastic apron and an ill-fitted mask. PHE replied on 6 April 2020 but did not sufficiently address this issue of inconsistent messaging [Exhibit KB2/149 - INQ000119091].
- (e) On 12 May 2020, GMB wrote to the Nursing and Midwifery Council highlighting serious issues with the supply of PPE in the NHS, including reports of NHS staff being pressured to work without adequate PPE and facing disciplinary threats from management if they resisted [Exhibit KB2/150 - INQ000119093]. NMC replied on 19 May 2020, providing links to various statements and guidance they had

published regarding PPE at work, refusing to treat a patient out of fear of safety and raising concerns and risks at work [Exhibit KB2/151 - INQ000119094].

PPE in the social care sector

172. The social care sector faced immense challenges to gain access to PPE in anywhere near sufficient numbers to be able to protect the workforce and mitigate against Covid-19 spreading across residents of care homes. Concerns were first raised on 19 March 2020, four days before entering lockdown, and were still continuing in December 2020. Providers and unions continually felt as though the social care sector was side-lined in favour of other sectors.

173. Concerns raised as to the availability of PPE and guidance in the social care sector included:

- a) On 19 March 2020, UNISON participated in the first Adult Social Care workforce and Covid19 Task and Finish Group meeting and already felt the need to highlight *"concerns around access to PPE"* across the care sector. They were told that *"distribution is being stepped up and the NHS and social care bodies will be getting equal priority"* [Exhibit KB2/152 - INQ000119095].
- b) On 29 March 2020, GMB sent a letter to Matt Hancock (then Secretary of State for Health & Social Care) raising serious concerns regarding health and social care workers [Exhibit KB2/153 - INQ000119096]. GMB highlighted the complete lack of suitable PPE for staff across health and social care and the failure of a consistent message from Government. They called for a response from Government as to what they were doing to address the *"crisis within a crisis"*.
- c) By 31 March 2020 early warning signs were being fed into the government about PPE supplies having run out in social care settings with UNISON noting from a DHSC workforce group of the same day that *"There is growing disquiet from across the group that as with volunteer initiative last week, that the care-sector is being completely side-lined by the NHS in the response to the crisis. This sentiment came out a lot more forcibly in a discussion around PPE. I registered that we've had a lot of members raise concerns about the lack of it and the provider representative bodies expressed real anger that hardly any PPE is reaching social care providers and that it is all being diverted to the NHS. It was reported that some care workers are having to resort to wearing marigold gloves. There is no coherent approach to PPE distribution/access/co-ordination in local areas and providers are getting*

increasingly frustrated” [Exhibit KB2/154 - INQ000119097]. The note of the meeting included that the failure to address the urgent crisis on PPE and grasp the priority nature of it was having an impact across the workforce and providers as UNISON “So quite a testy meeting. DHSC are keen to do more to thank the care workforce and ensure their contribution is recognised by the wider public (see Matt Hancock’s letter to the workforce earlier this week) but they are being undone by failing to address fundamental problems like PPE provision”.

- d) On 3 April 2020, a UNISON note from the DHSC workforce group meeting of the same day shows the government failing to understand the previous expressed frustrations and urgency of the necessity for PPE across the social care sector that had been raised in previous meetings with the note revealing that [Exhibit KB2/155 - INQ000119098] *“they gave some figures on PPE deliveries that were made to the NHS yesterday (5 million aprons, 21 million gloves etc) but gave no specific figures about what was reaching care providers. Probably because they were stung by the criticism at the last meeting about the lack of PPE provision for the care sector they’ve now set up a dedicated social care PPE task and finish group. I’ve asked that we are allowed to sit on it and they said the person leading the group will get back to us soon”.* The same note from the same meeting showed opportunities were being missed early for providers in social care to be able to have sight or feedback on guidance on PPE with the UNISON note saying *“in the absence of a comprehensive testing program care workers are naturally going to want to be issued with the most enhanced level of PPE possible because a lot of them are feeling worried for themselves, families and services. Interestingly the care providers were not asked to give comments on or given sight of the new PHE guidance ahead of its publication and they were a bit annoyed about that”.*
- e) On 7 April 2020, a UNISON note [Exhibit KB2/156 - INQ000119099] reveals that despite concerns having been raised weeks prior *“there is still confusion around how providers are meant to acquire PPE from the local resilience forums and whether there is a parallel supply chain in operation”* during the DHSC workforce group on social care.
- f) By 10 April 2020 at another DHSC workforce group on social care meeting government was failing to deliver its promises to providers when a UNISON note reveals that [Exhibit KB2/157 - INQ000119100] *“Despite the promises made by civil servants at the PPE meeting yesterday there has been no communication with providers to tell them about the state of PPE supply routes which is obviously concerning for them. They also still haven’t received the FAQs document related to the new PHE PPE guidance”.*

- g) On 14 April 2020 providers were still having to raise PPE as a priority during the DHSC working group on social care meeting with a UNISON note saying [Exhibit KB2/158 - INQ000119101] *“providers continued to raise their frustration at the guidance that has been issued by Public Health England over the use of PPE. They said the new guidance PHE circulated at the weekend has provoked even more questions for them”*.
- h) Meanwhile, GMB was calling for an urgent meeting with Helen Whately, then Minister for Care, to discuss the concerns of their members following reports of serious failings by employers who were still not providing care workers with the correct PPE [Exhibit KB2/159 - INQ000119102]. They had not yet received a response to their 29 March 2020 letter to Matt Hancock on the same issues, referenced above. It is worth noting that GMB sent a further letter to Helen Whately on 11 May 2020 as they had still not received any response to their previous correspondence [Exhibit KB2/160 - INQ000119104] and then, with there still having been no response, again on 21 July 2020 repeating the request for a meeting [Exhibit KB2/161 - INQ000119105].
- i) By 17 April 2020 the social care sector was warning government that a failure to have heeded earlier warnings on the accessibility of PPE to the sector with a UNISON note from the DHSC workforce group on social care stating *“providers voiced their continued exasperation at the PPE supply situation. The clipper system is still not up online and some providers are worried that they will run out of face masks over the weekend”* [Exhibit KB2/162 - INQ000119106]. The next day UNISON contacted PHE and DHSC raising urgent concerns about new PHE guidance on reusing PPE [Exhibit KB2/163 - INQ000119107]. There were concerns that this change in guidance on the use of PPE was being driven by problems with securing supplies of PPE to social care providers rather than protecting the health and safety of service users and staff. UNISON received a substantive response until nearly a week later, which then did not properly address the specific issues raised.
- j) GMB again raised the issues surrounding PPE with the Government on 18 April 2020, by way of another letter to Matt Hancock [Exhibit KB2/164 - INQ000119108]. GMB made it clear that its members were consistently raising concerns over the supply and quality of PPE. Despite having made repeated representations to Government departments, GMB felt the need to formally set out a number of questions to Government regarding the revised PHE guidance and supplies and testing. GMB can find no record of a response from the Government.

- k) On 24 April 2020 PPE was once again raised at the DHSC workforce meeting on social care with a UNISON note saying [Exhibit KB2/165 - INQ000119109] *"Public Health England's new guidance for the use of PPE in homecare settings has still not been published much to the frustration of the UKHCA (it is now a week late). I presume the urgent points we've raised with PHE [see paragraph 173(i) above] have something to do with that"*.
- l) On 26 May 2020, GMB wrote to Yvonne Doyle at PHE raising serious concerns over the advice on PPE that had been issued by the Government and PHE [Exhibit KB2/166 - INQ000119110]. GMB highlighted that the guidance was insufficient and unsuitable for staff in the care sector, with aprons not providing the appropriate protection and the sinks in many care settings not allowing the guidance for hand washing to be followed. There were also reports of local authority infection control units giving instructions for the re-use of single use items such as face masks. PHE replied on 2 June 2020, answering some of GMB's questions but not addressing some of the major concerns [Exhibit KB2/167 - INQ000119111].
- m) In June 2020, GMB again wrote to PHE expressing concerns over the supply of out-of-date PPE, namely FFP3 face masks, and the insistence by Government and employers that they were safe to use [Exhibit KB2/168 - INQ000119112]. PHE advised GMB to contact DHSC [Exhibit KB2/169 - INQ000119113]. GMB therefore wrote to Matt Hancock at the DHSC, on 2 August 2020, restating their concerns and requesting clarification on a number of points relating to the testing of supplies and advice given by the Government to employers on the use of out-of-date stock [Exhibit KB2/170 - INQ000119115]. DHSC did not respond until 20 October 2020, some two months later, answering some but not all of the GMB's questions [Exhibit KB2/171 - INQ000119116].
- n) On 28 October 2020, a note from UNISON reveals frustration that recommendations from the DHSC workforce group on social care were seemingly not being acted upon despite the forum having by this time been in place for eight months by saying *"I asked how the various recommendations in the taskforce will be monitored and by whom. E.G. Recommendation 4 is one we put in and as far as I'm aware nothing has been done about it"*. Recommendation 4 was that *"organisations should work to agree joint mechanisms for enabling staff to raise concerns about access to adequate supplies of PPE"* [Exhibit KB2/172 - INQ000119117].
- o) GMB then raised the issue of levels of PPE with NHS England in December 2020 [Exhibit KB2/173 - INQ000119118]. GMB explained that its members on the front line were still reporting unsatisfactory access to appropriate PPE to ensure their

safety at work. GMB expressed concerns that the stockpiles of PPE were based on the guidance at the time, which did not reflect emerging evidence about Covid-19 and its transmission. It appeared that the assessment of what constituted appropriate levels of PPE was being based on stock supplies and not the relevant scientific evidence. GMB called for the relevant bodies to work with the union to review and strengthen the current PPE guidance for health and social care workers.

- p) GMB sent similar letters, at the same time, again to Matt Hancock [Exhibit KB2/174 - INQ000119119] and PHE [Exhibit KB2/175 - INQ000119120].

PPE in other sectors

174. Guidance on PPE varied across sectors with at times seemingly no correlation between them. It has been commented by some member unions that they at times felt PPE guidance was driven by availability of PPE generally but also in relation to the prioritisation of specific sectors, rather than based on equitable guidance that was tailored for the specific challenges facing each sector.

175. GMB attended a stakeholder meeting with PHE on 2 April 2020 to discuss PPE guidance [Exhibit KB2/176 - INQ000119121], where PHE recognised the need for the workforce to have confidence in the guidance and expressed a desire for support from the union.

176. On the 22 April 2020 Unite raised concerns in a letter to Minister for Business Alok Sharma [Exhibit KB2/177 - INQ000119275] regarding the watering down of guidance for working safely, including the use of PPE, in the construction industry. The letter highlighted the confusion that guidance on PPE was causing in the construction industry stating *“our members are disturbed on the confusion around personal protective equipment. We hear daily that consideration is being given to mask wearing in public and yet construction workers are told to abandon the use of respiratory protective equipment with Version 3 of the SOP’s stating that: “sites should not use PPE for Coronavirus (Covid-19) where the two metre social distancing guidelines are met”. Our members are worried for their health if the use of PPE is dispensed with in site situations where workers are more than 2m apart. As construction workers are often required to move from one area to another on site would you not agree that a mask could help in preventing the spread of the virus?”*. Alok Sharma never responded which led to Unite having to engage with the

Construction Leadership Council, a delay that could have been avoided had government engaged fully with the issue and tackled its root cause.

177. On 4 May 2020, NEU wrote to the Minister for Schools, Vicky Ford, regarding PPE and special schools [Exhibit KB2/178 - INQ000119123]. NEU was concerned that pupils in special schools were not able to socially distance and were often unable to prevent themselves from spitting and dribbling. They were also less able to cover their mouths when sneezing or coughing, making the risk of airborne transmission even more likely. As a result, NEU argued that PPE should be worn by staff in Severe Learning Difficulty schools and Profound Multiple Learning Difficulty schools at all times, and in other special schools where there was an airborne risk of contamination from respiratory droplets. In the absence of Government advice that such appropriate PPE be worn, NEU called on the DfE, working with PHE, to give the matter further and urgent consideration and amend the advice accordingly.

178. The lack of clear direction from government regarding PPE was having a noticeable impact in terms of the safety of workforces across numerous sectors, an issue that was raised by Unite in its letter to the Construction Leadership Council of 26 May 2020, a letter that was sent after Alok Sharma failed to respond to previous correspondence [Exhibit KB2/179 - INQ000119124], in regards to the site operating procedure stating under the “work planning to avoid close working” that: *“It is at this point that Unite finds itself diametrically opposed to the SOP version 4. The SOP refers to the ‘Hierarchy of Controls’, which of course is the correct approach to any risk. At the bottom of the hierarchy is PPE, you will be aware when hazards cannot be controlled sufficiently in any other way PPE can be used as part of other collective measures to control risk.”*

179. The same section also saw Unite having to state that: *“In the SOP it recognises that people working within two metres of each other creates a risk. It then sets out to mitigate the risk, when all other options have failed to mitigate the risk, the SOP simply states “Coronavirus (COVID-19) needs to be managed through social distancing, hygiene and the hierarchy of control and not through the use of PPE”. This statement is contradictory as it is under a section which is advocating breaching the 2m social distancing rule. There is no limit how many times 2 meters can be breached and therefore the risk is variable. In which case the risk assessment decides if PPE is needed, if risk remains which it does PPE is an acceptable control measure. As it stands the guidance allows the worker to be put at risk that is completely unacceptable to Unite and its members?”*

180. The confusion caused by the failure of government to engage with the HSE in the first place for the creation of the SOP meant that Unite were left with no choice to sign off the letter by stating: *“Unless you are able to satisfactorily answer Unite’s concerns we cannot support the SOP version 4 as it places workers lives at risk.”* This delay all stemmed from Government failing to implement correct decision-making processes and involve relevant bodies and partners in the first place.

181. The same letter also highlighted the confusion government advice regarding mask wearing caused: *“Unite believes that the procedures in this section need to be updated to include: “If more than one person is required to share a vehicle, then the vehicle must be large enough to allow for 2m social distancing. Failing this the workers should be supplied with an appropriate mask”. (Unite would very much like to see any evidence you may have that suggests wearing of masks will not assist in the prevention of the spread of the disease.)”*

182. As I have already set out, a May 2020 RMT survey showed that 1 in 5 bus workers had been issued no PPE by their employers and only 50% had a screen fitted in their cabs. Government never agreed to RMT’s calls for a national plan on bus safety.

183. In fighting the spread of a pandemic, the necessity for adequate PPE is not limited to health and social care; far from it. A number of sectors required workers to continue working, in order to continue essential services and to keep the economy going. Workers in such sectors were exposed to unnecessary risk further to an absence of available PPE, and the absence of clear guidance that required such PPE to be used.

Concluding observation

184. PPE was a core concern and challenge for workforces across all sectors and unions had no option but to raise it frequently. The lack of available PPE is well known, and it must have contributed to unnecessary transmission of the virus. There was also a lack of clear and firm guidance about the use of PPE, which could perceive to have been driven as much by the lack of availability than a sound view as to how best to reduce transmission and the risk to life. Those difficulties arose, of course, in the health and social care sector, but also a range of other sectors.

Restricted opening of schools

185. It is worth noting that schools were never closed, as such. If not fully open, they were at least open to vulnerable and key worker children and providing remote education to the remainder (i.e. restricted opening). References to the 'closure' of schools should be interpreted with this in mind. The issue of when and how to restrict or widen this opening of schools was significant given the potential for the rapid transmission of the virus through schools and, consequently, local communities. Throughout the pandemic, education unions sought engagement with the Government to ensure that decisions properly took account of the scientific data and the risks to staff, pupils, their families and the wider public. However, the recurring theme was a distinct lack of engagement by Government and an unwillingness to share the reasoning behind those decisions the Government did take. The unions were consistently raising the same issues, such as the lack of appropriate PPE, difficulties with social distancing, advice on mask wearing, inadequate ventilation and protection for vulnerable groups. I set this out in further detail below.
186. On 14 March 2020, NEU sent a letter to Boris Johnson, explaining that the union was receiving an increasing number of questions from teachers and support staff as to why the Government was not following other countries in calling for periods of school closure [Exhibit KB2/273 - INQ000192244]. They called for the Prime Minister to provide access for education staff to the modelling underpinning that decision. NEU did not receive a response, prompting them to send a further letter to the Prime Minister on 17 March 2020, calling on him to close schools [Exhibit KB2/24 - INQ000119191].
187. It was at this time, early in the pandemic, that NEU already had significant concerns with the lack of engagement by Government and the inadequate communication channels. They asked the Secretary of State for Education to establish a working group to coordinate information delivery to the education profession [Exhibit KB2/180 - INQ000119126]. A task and finish group did commence work on 24 April 2020 but with the focus of increasing attendance at schools and it only lasted a month. The fundamental concern was clearly not addressed until May 2020 when a stakeholder forum was established following similar interventions by the TUC.
188. On 22 March 2020, the Government issued wide-ranging guidance on the closures of schools, with almost no trade union consultation. GMB subsequently received numerous queries and concerns, particularly regarding school staff with vulnerable people at home and the potential risk to those vulnerable people [Exhibit KB2/181 - INQ000119127]. Meanwhile, NEU again wrote to Boris Johnson, this time requesting access to the modelling underpinning any decision to reopen schools, following increasing speculation that such a decision was imminent [Exhibit KB2/182 - INQ000119128]. NEU then launched

a petition for the opposition to any reopening of schools before it is safe to do so, repeating the request for the Government to share with teachers and parents details of the modelling [Exhibit KB2/274 - INQ000192245]. The petition gathered over 400,000 signatories.

189. Throughout April and May 2020, the DfE did invite the views of unions on the wider opening of schools. See for example the NEU and GMB responses at [Exhibit KB2/183 - INQ000119129]; [Exhibit KB2/184 - INQ000119130]; [Exhibit KB2/185 - INQ000119131]; [Exhibit KB2/186 - INQ000119132]; [Exhibit KB2/187 - INQ000119133]; [Exhibit KB2/188 - INQ000119134]; [Exhibit KB2/189 - INQ000119135]. NEU set out the 5 tests they considered Government must meet before moving to the further opening of schools [Exhibit KB2/275 - INQ000192246]. These were: significantly lower numbers of Covid-19 cases, with a sustained downward trend; a national plan for social distancing, including provision for appropriate PPE; comprehensive access to regular testing for children and staff; protocols to be put in place to test a whole school or college when a case occurred and for isolation to be strictly followed; and protection for vulnerable staff and staff who live with vulnerable people. Similarly, in a letter to the Secretary of State for Education, NASUWT detailed 5 key points to be considered ahead of any decision to open schools more widely [Exhibit KB2/190 - INQ000119137], including the impact of a depleted workforce on support and provision for pupils, protection for teachers (particularly in regard to PPE), the challenges of social distancing in school settings, and Covid-19 risk assessments and cleaning.

190. This was followed by a joint statement from GMB, NAHT, NASUWT, NEU, UNISON and Unite sent to the Secretary of State for Education on 7 May 2020 [Exhibit KB2/276 - INQ000192247]. This statement set out a number of key principles and tests that the unions believed were essential to have in place before any plans were taken forward to reopen schools in England more widely. These included: safety and welfare of pupils and staff as the paramount principle; no increase in pupil numbers until full rollout of a national test and trace scheme; a national Covid-19 education taskforce with government, unions and education stakeholders to agree statutory guidance for safe reopening of schools; additional resources for enhanced school cleaning, PPE and risk assessments; and local autonomy to close schools where testing indicates clusters of new Covid-19 cases.

191. Despite its letter and the April 2020 petition, by 9 May 2020, NEU had not received any response from the Government to its requests to share the evidence and modelling, leading NEU to publish a report, *'Coronavirus, pupils and schools: unanswered questions'* [Exhibit KB2/191 - INQ000119138], in which the union set out the questions it had put to

the Government, along with references to scientific papers and studies confirming that there were real issues to be addressed.

192. On 10 May 2020, Boris Johnson gave a statement to the nation, saying the Government believed it may be in a position by 1 June 2020 to reopen schools in stages, beginning with reception, Year 1 and Year 6. NEU considered this to be reckless, pointing to its 5 tests that needed to first be met, which had not [Exhibit KB2/277 - INQ000192248]. Later that day, 49,000 NEU members responded to a survey about the announcement, with 85% saying they disagreed with the plans and 92% saying they would not feel safe with the proposed wider opening of schools [Exhibit KB2/278 - INQ000192249]. NASUWT also called for the Government to clarify the extent to which the Government had considered the equality impact of reopening, particularly in regard to BAME children, young people and adults [Exhibit KB2/192 - INQ000119139].

193. Nevertheless, on 24 May 2020, the Prime Minister announced the Government's intention to proceed with a phased reopening of schools. The next day, the DfE did invite further views from teaching unions on the Government's plans and the associated SAGE scientific advice. There were a number of issues with the policy basis and assumptions. For example, GMB highlighted that the SAGE advice did not consider a suite of external factors such as transport to school and how that might undermine the 'bubble' concept during school hours, it queried whether a localised/regional approach to reopening had been considered and challenged the basis for the decision to allow the youngest pupils in the school system to return two weeks before Year 10 and Year 12 students GMB responded on 27 May 2020 [Exhibit KB2/193 - INQ000119140].

194. There was further draft guidance for the Autumn term circulated by the DfE on 26 June 2020, again inviting comment from unions. GMB provided initial comments but emphasised that they had not had time for a detailed and thorough response, given the highly restrictive deadline, and called for further discussion to ensure parents, pupils, communities and staff have faith in the process [Exhibit KB2/194 - INQ000119141]. GMB's initial comments included concern over resourcing for many of the proposed measures, such as increased cleaning, the lack of individual risk assessments for staff at risk, vulnerable staff and BAME staff or staff who live with BAME families [Exhibit KB2/195 - INQ000119142]. Similar points were raised by NEU [Exhibit KB2/196 - INQ000119143]; [Exhibit KB2/197 - INQ000119144].

195. Soon into the Autumn term, GMB wrote to the Secretary of State for Education, Gavin Williamson, on 13 November 2020, calling for the Government to recommend face

coverings are worn in any environment, including classrooms, where social distancing could not be maintained [Exhibit KB2/198 - INQ000119145]. This followed what GMB described as an 'inundation' of calls from members saying their workplace was unsafe and that they had no confidence it was 'Covid secure'. The letter also called for clear guidance on adequate ventilation in classrooms and for the guidance that clinically extremely vulnerable staff were to work from home to be extended to clinically vulnerable staff too.

196. The NASUWT wrote to Secretary of State for Education Gavin Williamson, on 30 November 2020 [Exhibit KB2/199 - INQ000119146], to raise their serious concerns regarding the late publication of the department's contingency framework for the management of Coronavirus outbreaks in schools and the basis for that contingency framework. Not for the first time, the NASUWT called for the underlying scientific advice and data to be made publicly available. The same letter also expressed continuing concerns of NASUWT members around safety in schools and a failure of government to address those concerns, particularly regarding higher risk groups.

197. With Covid-19 cases continuing to rise, NEU wrote to the Prime Minister and the Secretary of State for Education, expressing concerns about the transmissibility of the new variant of the virus when there was still a lack of available PPE and social distancing in classrooms [Exhibit KB2/279 - INQ000192250]. NEU called for schools to remain closed, at least for the first two weeks of the new term in January, and asked to discuss steps to reduce disruption to education, including through online learning. There was no response to this letter. NEU repeated the contents of that letter in a further letter a week later, also calling for the Government to share the advice and modelling underlying the Government's plans to reopen schools [Exhibit KB2/280 - INQ000192251]. Similarly, the NASUWT wrote to the Secretary of State for Education expressing their significant concern with the lack of consultation on the decision and the lack of clarity and consistency with the Government's announcements [Exhibit KB2/200 - INQ000119148]. The NASUWT insisted on an immediate nationwide move to remote education for all pupils to safeguard public health. However, the Prime Minister continued to publicly declare that schools were safe, adding to the confusion and chaos, until on 4 January 2021 the Government belatedly announced national restrictions, including the closure of schools and colleges [Exhibit KB2/281 - INQ000192252].

198. When it came to considering the subsequent wider reopening of schools, there was some consultation, with DfE circulating draft guidance on 15 February 2021, however, it allowed less than one working day for comments [Exhibit KB2/201 - INQ000119149]; [Exhibit KB2/202 - INQ000119150]; [Exhibit KB2/203 - INQ000119151]; [Exhibit KB2/204

- INQ000119152]. The draft guidance itself was described by GMB as “a mess” [Exhibit KB2/205 - INQ000119153]. GMB provided comments to the DfE, expressing a number of concerns including a lack of detailed guidance on testing, bubble management and face coverings, along with insufficient guidance for the clinically vulnerable or clinically extremely and a complete absence of guidance for the recognition and management of the elevated risks faced by BAME workers, beyond simply citing the Equality Act 2010 [Exhibit KB2/206 - INQ000119154]; [Exhibit KB2/207 - INQ000119155]; [Exhibit KB2/208 - INQ000119156]. The NEU shared similar concerns, around shielding and self-isolation, rotas, and risk assessments for pregnant women. NEU also questioned the Government’s plans for the wider opening of schools, in the face of the advice of SAGE recommending a phased reopening, an approach adopted by Wales and Scotland [Exhibit KB2/282 - INQ000192253].

199. Frustratingly, the difficulties in properly engaging Government, and ensuring the concerns of teachers and pupils were addressed, never went away. Even as late as August and September 2021, the education unions were still raising the issue of ventilation, in advance of the Autumn term. They became so concerned with the situation and the lack of Government action that they issued their own joint guidance [Exhibit KB2/209 - INQ000119157]; [Exhibit KB2/210 - INQ000119159].

The challenge of different NPIs across the devolved nations

200. There was often a lack of co-ordination between the four nations on some NPIs, which led to different regulations in different nations. As noted by Prof Laura McAllister, of Cardiff University's Wales Governance Centre, “*a very immature system of inter-governmental relations in the UK made co-ordination all the more difficult*” [Exhibit KB2/283 - INQ000192254]. This caused some challenges for organisations with facilities in more than one nation.

201. More than once, the Welsh Government requested talks between the four nations on NPIs at critical points during the pandemic. For example, in October 2020, Mark Drakeford, the Welsh First Minister called for talks on a cross-UK ‘circuit-breaker’ lockdown. This was to no avail: there was no pan-UK agreement on this matter, leading to serious complications as the UK Government refused to raise wage support for the period of the Wales circuit-breaker.

202. In November 2020, the OECD recommended that countries with multi-level governance should “*introduce, activate or reorient existing multi-level coordination bodies*

that bring together national and subnational government representatives to minimise the risk of a fragmented crisis response". Had there been such a mechanism then it may well have assisted the UK in better co-ordinating the Covid-19 response.

E. PUBLIC HEALTH AND CORONAVIRUS LEGISLATION AND REGULATIONS

203. In addition to concerns raised about guidance provided to employers on managing NPIs in the workplace – both in terms of the content of the guidance and the process of consultation and development – the TUC continued to have concerns about the inspection and enforcement of public health and coronavirus regulations and legislation where they applied in the workplace. Although the basic health and safety legislative framework was in place, evidence was frequently emerging as to a lack of basic precautions in workplaces and an apparent inability to take a rigorous and proactive approach to inspecting and enforcing the relevant regulations in those workplaces.

204. In particular, the Health and Safety Executive ("HSE") has been so chronically underfunded that it was unable to perform any effective regulatory role in workplaces during the pandemic. There were similar problems in respect of local authority enforcement.

205. These issues are of particular importance of Module 2. In particular:

- a) When a government is considering the likely effectiveness of NPIs and whether, for example, a return to work can be managed without a surge in cases, one highly relevant factor is the likely effectiveness of the range of NPIs in the workplace, which is necessarily linked to the effectiveness of the mechanisms for monitoring and enforcement.
- b) Government decisions were made (as below) in respect of supporting monitoring and enforcement of NPIs in workplaces, and which fall within module 2, but this was largely limited to a one-off (and ineffective) grant to the HSE.
- c) The ineffectiveness of the mechanisms for monitoring and enforcement applied particularly in a range of workplaces with front-line but poorly paid and insecure work (food processing, manufacturing, transport, communications, etc) in which female, BME, and migrant workers are disproportionately over-represented. It is a relevant factor in understanding the disparate impacts of the pandemic.
- d) Ultimately, it is an area upon which recommendations are required and some of the most important lessons need to be learned.

The role of HSE and Local Authorities in inspecting and enforcing regulations, legislation and guidance

206. The Health and Safety at Work Act 1974 lays out a general duty on all employers to ensure the health, safety and welfare at work of all their employees. The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide welfare facilities (including the right number of washbasins), a healthy working environment (including a clean workplace with good ventilation and the right amount of space and heating) and a safe workplace. There are specific laws relating to some higher risk workplaces. The Management of Health and Safety at Work Regulations 1999 imposes a legal duty on all employers to carry out risk assessments. Regulation 3 imposes a duty upon the employer to make a “*suitable and sufficient assessment*” of the risks to health and safety of the employees. Advice as to what is “*suitable and sufficient*” is given by the HSE in its approved code of practice to the Regulations. Further, the effect of the Control of Substances Hazardous to Health Regulations 2002 was to require specific Covid-19 risk assessments.

207. The HSE set out the role that it would play in enforcing regulations at work – along with Local Authorities - in an exchange of emails with the TUC in March 2020. In an email of 31 March [Exhibit KB2/211 - INQ000119160], the HSE confirmed that:

- Key guidance on tackling Covid-19 as a public health risk was the responsibility of DHSC, PHE and other bodies such as BEIS.
- The HSE worked closely with these organisations to provide advice on workplace issues, signposting to relevant guidance and encouraging businesses to follow it.
- Under the Health and Safety at Work Act 1974, employers have a duty to ensure, as far as is practicable, the health, safety and welfare of their employees at work. And that if an employer is following relevant PHE guidance for their sector, the HSE was confident that they will be taking practicable precautions to control workplace risk.
- When it comes to the attention of the HSE that employers are not taking action, the HSE has a range of actions to improve control of risks ranging from specific advice to employers to issuing enforcement notices and prosecution.
- Local Authorities had recently been given new powers under the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 to close premises, where the government has ordered them to close and where they had not done so.

For other premises, Local Authorities should be taking the same approach as the HSE – responding to concerns raised directly with them.

- Workers with a genuine health and safety concern that appropriate practice is not being followed and they are unable to resolve through their employer or trade union, were advised to contact the relevant LA or HSE.
- In the case of the HSE, this could be done through the Concerns and Advice Team.

208. It was clear from this that the HSE and LAs had the powers to not only signpost and encourage employers to follow relevant guidance but to take action where concerns were raised around non-compliance with the full range of relevant NPIs set out in that guidance.

209. However, the ability in practice to respond to concerns being raised was limited. As the TUC observed in the 3 April 2020 report, *'Protecting workers' safety in the coronavirus pandemic'* [Exhibit KB2/59 - INQ000119236], "Currently there is little in the way of enforcement to prevent employers from failing to follow measures. It is not clear how reports are made, how viability of the measures is determined, or what threshold of measures must be broken for the HSE or Environmental Health and Trading Standards to investigate a breach. Nor is it clear the detail of any penalties which could be incurred."

210. Subsequently, on 27 April 2020 and in the context of the easing of the first national lockdown, the TUC reported in *'Preparing for the return to work outside the home- a trade union approach'* [Exhibit KB2/67 - INQ000119244] that:

Unions have heard too many reports of workers expected to work in unsafe conditions. We are extremely concerned by the failure of enforcement agencies to take action against employers who are putting the health and safety of their workers in jeopardy during this pandemic. We continue to press the government to enforce Public Health England's guidance on every employer whose staff are continuing to work. We want to see further tough enforcement action against employers whose actions have put staff at risk and call on the relevant enforcement agencies (including the HSE and local authorities) to act to guarantee worker safety.

211. At least in relation to gas networks, the HSE confirmed that it would be taking a more passive role in enforcement, pausing all proactive work and suspending all non-urgent interventions [Exhibit KB2/212 - INQ000119161].

212. The scale of the problem was identified in the TUC's biennial survey of its affiliated union safety representatives. The report is used by the TUC to understand the changing experience of safety representatives at work and to help provide more support. The survey is also used to inform public policy debates. In the 2020/21 survey additional questions were added to ask specifically about workplace health and safety during the pandemic. 2,138 safety representatives responded and the results were reported in March 2021 in the '*Union Health and Safety Reps Survey, 2020/2021*' [Exhibit KB2/213 - INQ000119162]. The report identified widespread non-compliance with guidance and variable implementation of NPIs in the workplace. For example, despite government guidance indicating that employers of more than 50 workers should publish their risk assessment on their public website, only 44% of all respondents to the survey in workplaces of more than 50 employees confirmed that their employer had done so. A significant proportion of safety reps felt that sufficient and appropriate PPE had not always been provided, with the worst case being in NHS hospitals where 44% felt this to be the case. Fewer than one in three safety representatives said their employer was implementing appropriate physical distancing between employees all of the time, with just 37 per cent saying they were doing so "most of the time". The survey also identified the low levels of workplace visits by health and safety inspectors, be they HSE inspectors, Environmental Health Officers or other relevant safety inspectors. The responses to the survey indicated that more than six in 10 safety representatives did not know of any visit ever by the relevant safety inspectorate.

213. That was consistent with the research conducted by the University of Greenwich, '*Research into Covid-19 workplace safety outcomes in the food and drinks sector*' [Exhibit KB2/214 - INQ000119163], which described an absence of health and safety infrastructure in UK workplaces, with managers in the food and drink sector reporting very low levels of health and safety representations. It showed that those in workplaces with union health and safety reps were significantly more likely to have sufficient PPE (73% versus 53% of those with no health and safety representative).

214. On 11 May 2020 the Prime Minister stated that: "*We are going to insist that businesses 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 businesses are keeping their employees safe*" [Exhibit KB2/284 - INQ000192255]. However, by early June 2020 the HSE had received over 6,000 additional concerns from workers about social distancing and other pandemic related matters. The impression of the TUC and affiliated unions was that the HSE response fell woefully short,

and that is supported by the HSE's own reporting of its response [Exhibit KB2/215 - INQ000119164]. Significantly, of over 6,000 concerns:

- a) 2,684 were passed to HSE 'field teams' for follow up;
- b) of those, 1,331 were considered to require no further action;
- c) in 581 case the action was limited to verbal advice (512) or a letter (69); and
- d) only 47 concerns were responded to with a physical inspection, and one prohibition notice was served.

215. That is striking: six months into a pandemic which had terrible consequences in so many workplaces, the HSE had conducted 47 site visits and issued 1 prohibition notice. It was wholly inadequate. The HSE also confirmed that it had not conducted a single inspection of a care home since 20 March 2020, although it *"continues to receive concerns about worker safety issues related to coronavirus in care homes and is actively investigating these"*. In June 2020, the House of Commons Work and Pensions Select Committee observed that the HSE had received thousands of concerns regarding safety at work during the pandemic but had required only one business to close and it had not inspected a single care home since 10 March 2020 [Exhibit KB2/285 - INQ000192256].

216. On 31 May 2020, Mike Clancy, the General Secretary of Prospect, wrote to the Prime Minister raising concerns, saying [Exhibit KB2/216 - INQ000119165]:

"You recognised the vital contribution of the HSE earlier this month when you told the House of Commons that "The Health and Safety Executive will be enforcing (the new workplace guidelines) and we will have spot inspections to make sure that businesses are keeping their employees safe." I am sure your endorsement of the HSE was heard clearly and the implicit appreciation that strong approaches to health and safety are more important than ever. As you know, the cuts to the HSE in recent years have left them in the position where they will struggle to play the role that you envisage and they would want. You have seemingly recognised that this is the role that the public and business would also expect them to deliver. An additional £14m has been made available to the HSE, however, this only replaces a fraction of the real terms cuts since 2010 and it will not be available to recruit skilled specialist staff who take a long time to train. The current position of HSE is that they will not be undertaking physical inspections of workplaces; instead inspections will occur over the phone. Even if

physical inspections were occurring, the fact that there are fewer than 500 main grade inspectors means that it is unlikely that any individual workplace would be inspected”

217. Whilst on 11 May 2020 the Prime Minister had described a system of ‘spot checks’ to ensure safety in workplaces, including with an additional £14 million of funding for the HSE, in practice, this amounted to little or no enforcement. As described in the IER Report referenced below [Exhibit KB2/218 - **INQ000103571**] ‘spot check calls’ followed a three-stage process, whereby stage one was a 15-minute telephone call following a scripted question set according to the Covid-19 guidance, stage two was a more detailed telephone conversation delving into any areas of potential concern and stage three was on-site inspection. The telephone calls were largely carried out by outsourced, private providers and a very small proportion of Covid-19 spot checks led to further action. In the six months from 1 April 2020 to 30 September 2020, a total of 15,622 spot check calls were made, supplemented with 4,938 spot check visits. But in total, this Covid-19 enforcement activity generated just 78 notices and zero prosecutions.

218. One-off funding in a pandemic does not work. A regulator cannot, suddenly, transform its workforce. Accordingly, much of the spot-check work during the pandemic was outsourced to two debt-collection companies with no work safety track record. Engage Services (part of Marston Holdings) and CDER Group were awarded contracts by HSE worth a combined £7m to carry out spot checks on behalf of the regulator and they undertook over 80 per cent of all ‘HSE’ Covid visits. Prospect (the union representing HSE inspectors) reported that the vast majority of proactive site visits conducted by the HSE in response to Covid-19 were carried out by these external contractors who carried out 52,000 visits compared to 12,000 carried out by trained and ‘warrant’ empowered HSE inspectors [Exhibit KB2/217 - **INQ000119234**] However, these “Tick Box, Spot Check” Contract Support Officers couldn’t initiate enforcement action as they are not ‘warranted’ with enforcement powers like HSE Inspectors and have no statutory right of entry like HSE Inspectors. As such they rarely got beyond reception in many of their visits to workplaces.

219. The inability of the HSE to respond to the pandemic was highlighted in the report of the Institute of Employment Rights, *HSE and Covid at work: a case of regulatory failure* (March 2021) [Exhibit KB2/218 - **INQ000103571**] The TUC also called for action in its report of 2 April 2021, ‘*A safe return to the workplace*’ [Exhibit KB2/219 - **INQ000119269**] It was observed that a year into the pandemic, and notwithstanding thousands of workplace outbreaks, not a single employer had been fined and prosecuted for putting their staff in danger. The report also noted that the HSE had still not amended its much-

criticised designation of coronavirus as a “significant” rather than a “serious” workplace risk, which limited the enforcement options open to inspectors (see, further, below).

220. For an illustrative case, we can turn to the Royal Mail Group (RMG). Employing a workforce of over 115,000 deployed over 3,000 separate workplaces in the UK, RMG continued to provide a 6-7 day a week service throughout the pandemic, delivering to over 30 million addresses in every part of the UK at a time when parcel delivery increased by 80 percent. This provided a key public service to households across the country, supporting the health response to the crisis through the delivery of testing kits and prescriptions. During this time, 49 RMG staff lost their lives to Covid-19 and, at its peak, over 25,000 members were infected. Evidence from the Communication Workers Union (CWU) shows that, in contrast to the current situation with industrial relations, during the pandemic there was very effective partnership working at the national and corporate level between the CWU and RMG management in supporting NPIs in the workplace and ensuring compliance with PHE guidance [Exhibit KB2/220 - INQ000119170]. This included considerable investment by RMG in PPE and weekly meetings of CWU safety reps and national officers with the RMG Leadership Team, including the Commercial and Field Programme Director and the Safety, Health and Environment Director. However, the main problem experienced and a constant challenge was local compliance across the RMG estate in all Offices, particularly the large number of sub-standard, dated and over-crowded Delivery Offices due to growth and Office mergers and consolidations. This led to a constant number of problems arising and dispute/escalations. This is where more HSE interventions would have assisted.

221. Instead, HSE engagement was minimal. National Health and Safety Officer for the CWU, Dave Joyce, reports that he was aware of only four visits by the HSE to RMG premises, including investigating and taking enforcement action through Fee for Intervention notices at Medway Mail Centre, Ashford Delivery Office and Deeside Parcelforce Depot as well as a site visit in Bootle, Merseyside [Exhibit KB2/220 - INQ000119170].

222. Notably, until 2016 the RMG had benefitted from a single point of contact through a dedicated principal officer at the HSE that would have regular engagement with both RMG management and the CWU. From 2016 this function ceased to exist.

223. Meanwhile, Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) carried out local inspections of fire and rescue services and produced a report in January 2021. This report uncovered safety and equalities failures by fire employers

and chief officers, stating “*more could have been done in a third of services to make sure staff who may have been at greater risk, such as those from a Black or ethnic minority background, were identified and correct provisions put in place to offer them relevant support*” [Exhibit KB2/221 - INQ000119171]. However, rather than making demands to fix these issues, HMICFRS chose instead to launch politically-motivated attacks on the FBU.

224. Food and drink manufacturing was also an industry with heightened risk of infection and often inadequate responses, particularly in parts of the industry characterised by insecure work and low paid, vulnerable groups of workers. In April 2020, GMB submitted a formal complaint to HSE requesting formal intervention regarding Bakkavor London Meals’ working practices [Exhibit KB2/222 - INQ000119172]. It had come to light that not only had Bakkavor not been applying the social distancing rules, it had issued PPE to staff in the form of balaclavas and neck snoods, whilst indicating to staff that the snoods “should be safe”. As a result, later that month HSE issued updated guidance on PPE to the baking industry [Exhibit KB2/223 - INQ000119173].

225. There are equally significant problems in local authority health and safety enforcement in the workplace. The Financial Times reported in May 2020 that “*the number of full-time equivalent local authority health and safety inspectors has halved since 2010 to just 480*” and that more than 140 local authorities employ fewer than one full-time equivalent inspector [Exhibit KB2/294 - INQ000192265]. The de-funding of these enforcement teams has also limited the ability of the remaining local authority officers to engage with stakeholders including trade unions. As a result, our member unions found it consistently difficult to work effectively with local government enforcement.

Enforcement Management Model (EMM)

226. A further area of concern for the TUC and its member unions was the reclassification of Covid-19 as a “significant” as opposed to “serious” workplace risk in the HSE’s Enforcement Management Model (EMM). The issues in question were set out in a briefing to the TUC Executive Council and HSE Senior Management on 29 June 2021 [Exhibit KB2/224 - INQ000119174].

227. In February 2021, it was revealed that the HSE had EMM, which is the framework used to assess workplace risks. The TUC, members of the HSE board, and Prospect’s branch within the HSE raised concerns privately and publicly. The classification, to a degree, determines what level of enforcement action the HSE will take when employers fail to implement Covid control measures. Specifically, inspectors generally do not issue

prohibition notices to employers for breach in relation to a risk classified as only 'significant'.

228. The TUC had two key concerns with this change to that led to the downgrading of its risk classification of Covid-19.

229. First, is the way the Model has based risk on how Covid affects people of 'working age' (i.e. up to the age of 64), thus excluding the large number of workers over that age, and for whom the consequences of contracting disease may be the most serious. According to the review, "80% of those of working age who test positive for COVID-19 are either asymptomatic or recover fully within 5 weeks or less.", and "the working age population has a much lower death rate than those aged over 65 years". For the purposes of the review, the HSE defined working age as 20-64 in order not to include those who may be in education or retired. However, since the Default Retirement Age was scrapped in 2011, the number of over-65s in work has grown. As of last year, 40% of men and 30% of women over the age of 65 were still working, a total of 900,000 workers. What is more, an ONS study into older workers in the pandemic reveals that older workers are less likely to have worked from home. Essentially, the HSE has removed this section of older workers from its risk analysis, meaning the justification for the 'significant' categorisation is in part based only on those workers for whom 'serious' outcomes (i.e. hospitalisation and fatality) is less likely.

230. This points to the analysis used in the EMM being a decade out of date. The HSE exists to protect the health and safety of all workers, not just those up to the age of 64.

231. Secondly, its comparison with categorisations of other coronaviruses was flawed in its approach. Other coronaviruses, including SARS (severe acute respiratory syndrome) and MERS (Middle East Respiratory Syndrome), have previously been categorised by HSE as 'serious' by its Advisory Committee on Dangerous Pathogens (ACDP).

232. While the three coronaviruses have similarities, their effect on the population differs. Both MERS and SARS have significantly higher case fatality rates than COVID-19 (30 per cent and 10 per cent respectively). However, Covid-19 is more infectious, spreading more easily among people, leading to greater case numbers. Hence, despite the lower case fatality rate, the overall number of deaths from Covid-19 far outweighs that from SARS or MERS. Neither SARS nor MERS have the severe related chronic diseases (ie Long Covid) associated with Covid-19.

Failure to classify Covid-19 as an occupational disease

233. The TUC was also concerned by the failure to classify Covid-19 as an occupational disease.
234. The case for prescribing Covid-19 was set out in the TUC report *Covid-19: an occupational disease* from 15 August 2022 [Exhibit KB2/225 - INQ000119175]. In our report, we showed that for many workers, carrying out their job puts them at greater risk of exposure to Covid-19, a virus which can cause ill-health effects for more than a year, and has been fatal for more than 15,000 people of working age in Britain. There is evidence from large workplace outbreaks that working at close proximity to others increases the risk of infection.
235. Exposure to Covid-19 at work risks long-term ill-health effects. One in 10 people with Covid-19 continue to experience symptoms beyond 12 weeks, posing a significant risk to their employment status and earning potential. Common symptoms of Long Covid include extreme tiredness, shortness of breath and memory problems. Experience of these symptoms can cause workers to require extended periods of sickness absence from work, or risk inability to perform job roles adequately or safely. Research by the TUC found that 20% of workers with Long Covid had seen a negative impact on their job security, including having to leave their job.
236. The TUC has previously called for the recognition of Long Covid as a disability, in order to protect workers under existing equality legislation. This is separate to a call for prescription as an occupational disease, which would offer workers in particular jobs additional support and compensation.
237. At least 20,000 people die prematurely every year because of occupational disease. The most common of these is asbestos-related disease, associated with a number of occupations including construction and firefighting.
238. There are more than 70 prescribed 'occupational' diseases known to be a risk from certain jobs. These diseases arise as a result of employment requiring close contact with a hazardous substance or circumstance.
239. A 'prescribed' disease is one for which benefits are payable. This means, on account of a person's diagnoses being linked to their job, they are able to claim financial support, through the Industrial Injuries Scheme. This provides benefits to employees who were

employed earners at the time of a work-related accident or when they contracted a prescribed disease.

240. The Social Security Contributions & Benefits Act 1992 allows ministers to prescribe a disease if they are satisfied that it can be caused by work and that such a link can be made with “reasonable certainty” in the individual claimant’s circumstances. This means it must be “more likely than not” that the disease is due to a person’s work.

241. The government is guided in this by scientific advice from the Industrial Injuries Advisory Council (IIAC). IIAC is an independent scientific advisory body that looks at industrial injuries benefit and how it is administered. IIAC considers published independent medical and scientific research and makes recommendations to the Secretary of State to update the list of diseases and the occupations that cause them for which Industrial Injuries Disablement Benefit can be paid. The Council’s role is to advise and make recommendations, but ultimately it is the Secretary of State for Work and Pensions who takes the final decision about whether to implement a recommendation.

242. The recognition of Covid-19 as an occupational disease would formally recognise the higher risk in certain jobs and signify a need for greater support for affected workers and patients. IIAC has concluded *“that there is a clear association between several occupations and increased risk of death from COVID-19”* [Exhibit KB2/226 - INQ000119176].

243. IIAC seeks evidence that it is ‘more likely than not’ that the disease is due to work. As such, IIAC is currently seeking and considering evidence that the “relative risk” (RR) for Covid in particular jobs is more than 2 (as the minimum standard for prescribing a disease). An RR above 2 means that people who work in a particular job are more than twice as likely to develop a particular disease as members of the general public who do not work in that type of job. In considering Covid data, the IIAC report from March 2021 states: *“Analyses of UK death certificates between March and December 2020 show more than a two-fold risk in several occupations especially for males, including social care, nursing, bus and taxi driving, food processing, retail work, local and national administration and security.”* [Exhibit KB2/226 - INQ000119176].

244. Many European countries have already classified Covid as an occupational disease.⁴ The TUC believes the government must now act to classify Covid-19 as an occupational disease and support workers suffering Covid ill-health effects as a result of their job.

F. IMPACT ON OUR MEMBERS

245. In this section I summarise the evidence gathered by the TUC as to disparate impacts of the pandemic upon our members and the working people we represent, including protected and vulnerable groups. The TUC has a long history of campaigning to address discrimination in the British labour market, the workplace and in wider society.

246. At the outset, I give evidence as to the impact of the pandemic on working people, highlighting the TUC's concerns about the under-reporting of workplace transmission of the virus, particularly for certain occupational groups. I then turn to look at the impact on protected and vulnerable groups of workers.

Under-reporting of occupational exposure to Covid-19

247. There was significant under-reporting of occupational exposure to Covid-19 under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) and, as a result, potentially thousands of deaths went unrecorded and, as a result, under-investigated.

248. This issue was considered in the TUC's 23 May 2021 report *RIDDOR, Covid and under-reporting* [Exhibit KB2/227 - INQ000119177], in the TUC Executive Committee briefing paper of 29 June 2021 [Exhibit KB2/224 - INQ000119174] and again in the TUC's 15 August 2022 report, '*Covid-19: an occupational disease*' [Exhibit KB2/225 - INQ000119175].

249. TUC Freedom of Information requests to Public Health England (PHE) revealed that between April 2020 and January 2021 there were 4,523 outbreaks reported in 'workplaces'. This categorisation excluded infections in care homes, hospitals, education

⁴ As evidenced by a report compiled by the International Labor Organization (ILO) which detailed schemes by more than 50 states, as referenced at page 5 of the TUC's report on *Covid-19: An Occupational Disease* [Exhibit KB2/225 - INQ000119175].

providers, prisons and food outlets; all of which have reported high numbers of infections and outbreaks during this period.

250. The TUC's report on Covid and under-reporting demonstrates that available data shows a correlation between certain occupations and Covid-19 exposure and fatality. And the ONS explain why there is such a difference in infection and fatality rates within certain occupations – because some are less able to work from home, or to socially distance while at work.

251. The TUC also identified how the SAGE Environmental Modelling Group's (EMG) key findings show links between certain jobs and infection and mortality rates. A paper in February 2021 found that *“occupations which involve a higher degree of physical proximity to others over longer periods of time”* report higher Covid-19 cases.

252. Despite data showing significant numbers of occupations with a higher-than-average death rate, only around 30% of HSE reports of occupational disease involving Covid-19 are from workplaces not classified as health and social care. For example, while the ONS data shows 608 Covid deaths among transport workers between 9 March and 28 December 2020, only 10 notifications were made via RIDDOR in the longer period of 10 April 2020 to 17 April 2021 - a rate of just 1.6%.

Industry	Recorded deaths - ONS (9 March – 28 December 2020)	Reported deaths - RIDDOR (10 April 2020 – 17 April 2021)
Health and Social Care	886	271
Transport and storage / drivers and operatives	608	10
Construction	305	4
Education	139	9

253. In the year between 10 April 2020 and 10 April 2021, 126,723 deaths in England and Wales were registered as involving Covid-19. Of these, 14,171 were adults between the ages of 15 and 64. In Scotland, there were 9,676 deaths where Covid-19 was recorded on the death certificate within the same period, with 1,092 between the ages of 15 and 64. This amounts to 11% of all Covid fatalities being among this age group in England and

Wales and Scotland. It is expected the number of fatalities among those in-work is higher, given the proportion of over 65s who work is significant. Despite the total of 15,263 registered 15-64 year old adult deaths from Covid-19 in the year April 2020 to April 2021; just 387 Covid fatalities were reported under RIDDOR as work-related in the same period, according to HSE's database. The HSE confirmed that of those, 216 deaths were being investigated by the body.

Covid-19 deaths (10 April 2020 – 10 April 2021)	Total
Overall	126,723
Working-age	15,263
Reported to RIDDOR	387
Investigated by HSE	216

254. While there are numerous ways people can become exposed to Covid-19; either by travelling to work, socialising or otherwise, it is not unreasonable to expect some of these instances were a result of exposure in the workplace. Certainly, it is likely that more than 2.5% of these deaths (as the RIDDOR data suggests), were the result of occupational exposure, particularly considering the high number of breaches of safety protocols identified in research and polling (such as our Safety Reps survey referred to previously).

255. Early guidance from the Health and Safety Executive (HSE) required employers to report cases where there was reasonable evidence to suggest Covid infection was caused by occupational exposure. There were 93,000 cases reported to enforcing authorities in 2020/21 which employers believed may have been caused by exposure at work. Risk of occupational exposure in particular sectors was higher, for example, 64% of all reports made by employers were from the health and social care sector.

256. However, since 1 April 2022 the only cases of Covid-19 reportable to HSE must be due to either deliberately working with the virus (for example in a laboratory) or being incidentally exposed to the virus from working in environments where people are known to have Covid-19 (such as in health and social care). Cases due to general transmission (either worker-to-worker, or from contact with members of the public) are no longer reportable.

257. A case of occupational exposure of Covid-19 being reported to the authority does not necessarily mean anything materially for the worker but, importantly, it allows regulators to see which sectors are experiencing high levels of infection and may require regulatory intervention. The HSE accepts there is “widespread under-reporting”, and with sectors where use of disease reporting processes is not standard practise, it is likely thousands of cases of work-related Covid-19 disease have remained uncaptured.

BME workers

258. The key reports produced by the TUC in relation to the impact upon BME workers are:

- (a) *TUC response to the Inquiry on Covid-19 and the impact on people with protected characteristics* (18 May 2020) [Exhibit KB2/228 - INQ000119178];
- (b) *Dying on the job – Racism and risk at work* (17 July 2020) [Exhibit KB2/229 - INQ000119179];
- (c) *Jobs and Recovery Monitor – BME workers* (20 January 2021) [Exhibit KB2/230 - INQ000119181];
- (d) *Health, Safety and Racism in the Workplace – a study of Black workers’ experiences* (29 July 2022) [Exhibit KB2/231 - INQ000119182]; and
- (e) *Still Ripped – Racism in the UK Labour Market 2022* [Exhibit KB2/232 - INQ000119183].

259. Individual unions also published their own reports and issued guidance on the issues facing BME workers, in all sectors. For example, on 6 May 2020 RCM produced ‘wraparound’ guidance for BME healthcare workers [Exhibit KB2/233 - INQ000119184]. This assisted those workers in understanding legislation that offered protection to the BME community, as well as explaining the role played by risk assessments in the workplace and how they should be carried out. RCM also issued guidance to maternity staff, outlining particular principles of care for BME women [Exhibit KB2/234 - INQ000119185], with further detailed guidance again in July 2020 [Exhibit KB2/235 - INQ000119186]. GMB created a Risk Indicator Tool for BAME workers, to assist those workers in assessing the individual risk they faced [Exhibit KB2/286 - INQ000192257].

260. As the TUC submitted in its response of 18 May 2020 to the Women and Equalities Committee inquiry, Black workers, as well as women and disabled workers, are all overrepresented in insecure work. These workers were bearing a disproportionate burden in keeping the country running during the current crisis. They were working long hours to keep shelves stocked, hospitals clean and goods delivered to those who could not leave

their homes. But these workers, who are central to the welfare of so many, were forced to work without many of the most basic employment protections, often working on zero-hour contracts, and false 'self-employment' arrangements which deprives workers of basic employment rights.

261. The impact of coronavirus on BME people laid bare multiple areas of systemic disadvantage and discrimination. The fact that BME people are more likely to live in overcrowded housing, have poorer health outcomes and be concentrated in insecure work where they have access to far fewer employment rights is well documented. There have been numerous reports produced over the years - some commissioned by the government itself - which have recommended action to tackle discrimination and entrenched disadvantage. If these recommendations had been acted on, BME people may not have been disproportionately impacted, as they were. It is on some of these structural issues that the recommendations of the Inquiry should be focused.

262. In addition to these structural disadvantages, direct discrimination in the workplace was also an issue. To a large extent, that reflected discrimination faced by BME workers before the outbreak of the pandemic. Research conducted by TUC in early 2020 revealed that 56% of BME women and 48% of BME men reported being allocated harder or less popular tasks than white counterparts. Our 2017 report '*Is Racism Real*' [Exhibit KB2/236 - INQ000119187] revealed that despite experiencing high levels of discrimination, BME staff do not feel confident in reporting this, with almost half not reporting incidents. Respondents reported not being believed and in many cases being targeted for worse treatment if they did report discrimination that they faced. Those in insecure work faced even more barriers to reporting with fears of work not being offered if complaints were raised.

263. The TUC May 2020 response to the Women and Equality Committee inquiry also reported that Black workers had experienced problems in accessing PPE. That was influenced by overrepresentation in particular occupational groups and also a tiered approach to distribution of PPE, with outsourced workers, where again Black workers are overrepresented, finding themselves at the back of the queue. Concerns had also been raised around inadequate PPE that failed to take into account the wearing of turbans, beards and hijabs. For example, Sikh and Muslim workers who wear beards for religious reasons had reported facing difficulties in accessing alternative PPE when standard face masks did not fit because of their facial hair.

264. The Government was aware of the potential disproportionate impact of Covid-19 on BME workers from relatively early on in the pandemic. On the 6th May 2020 SPF conference call, involving, amongst others, NHS England, DHSC and trade unions, it was recognised that there was a need to act urgently in respect of 5 key areas [Exhibit KB2/237 - INQ000119026] (a) Protection of staff, with improvement of risk assessments to include the impact on BME workers; (b) Engagement with staff, where BME staff feel comfortable to convey their experiences of Covid-19; (c) BME representation in decision-making; (d) Rehab and recovery, acknowledging there might be a higher emotional toll on BME workers; and (e) More diverse representation in media.

265. In order to put the voice and experiences of BME workers at the heart of the debate about the disproportionate impact of Covid-19 the TUC put out a call for evidence in June 2020. Over 1,200 workers responded and told the TUC their stories. The results of the TUC call for evidence were produced in the TUC's July 2020 report referenced above, '*Dying on the job – Racism and risk at work*' [Exhibit KB2/229 - INQ000119179]. The report noted a number of key factors which placed BME workers at greater risk, including disproportionately high representation in low waged occupations where they are expected to do the hardest and most dangerous work, and that BME workers were disproportionality working in the frontline jobs that were keeping our communities going through the crisis, whether it was nursing the sick in hospitals, looking after the elderly in care homes, keeping public transport going, or producing and distributing food.

266. The report found that one in five of those who responded to the call for evidence said they had been treated unfairly because of their ethnicity at work during the pandemic and around one in six said they had been put at more risk at work because of their ethnicity. There were accounts of BME workers being singled out for higher risk work, denied access to PPE and appropriate risk assessments, unfairly selected for redundancy and furlough and hostility from managers if they raised concerns. The report set out, in the short term, and in response to the pandemic, urgent steps that employers needed to take. These included conducting appropriate risk assessments for BME workers that considered the particular risks for BME workers, informed by thorough, sensitive and comprehensive conversations with BME staff that identify all relevant factors that may influence the level of risk they are exposed to, including any underlying health conditions and work arrangements.

267. In 2022 the TUC undertook a further project stemming from the experiences of frontline workers during the pandemic, and the knowledge that Black workers made up a

disproportionate minority of union health and safety representatives. The report drew upon a survey and focus groups of Black workers and reps to identify experiences of frontline workers during the pandemic, and the role than unions have played and could play. The resulting report was published on 29 July 2022, *Health, Safety & Racism in the workplace - a study of Black workers' experiences* [Exhibit KB2/231 - INQ000119182]. As will be seen from the report, a number of conclusions were drawn. They included:

- The survey found experiences of racial discrimination in the workplace and perceptions that there was unequal exposure to health and safety risks, including based on race. The focus groups discussed how black workers were pushed onto the frontline, while racial hierarchies meant disproportionately white management were able to isolate.
- Exposure was a particular issue for those on non-standard contracts with limited employment rights, in particular access to occupational sick pay during the pandemic. Respondents described workers unable to survive on statutory sick pay and attending work when symptomatic.

268. These issues were examined again in the TUC Report, *'Still Rigged – Racism in the UK Labour Market 2022'* [Exhibit KB2/232 - INQ000119183]. The report described the systemic nature of racism and highlighted that workplace racism and racial inequality must be addressed through substantive structural, institutional and legislative reform. The findings revealed both the structural racism that traps Black workers in lower paid and insecure jobs, and the everyday experience of racism. Almost one in five BME workers (18 per cent) had to work two or more jobs for financial reasons. 15 per cent have worked on a zero-hours contract at some point in the past five years and a similar proportion (13 per cent) have had working hours changed at short notice. Two in five BME workers reported experiencing racism at work in the last five years. Those who reported experiencing at least one form of harassment were asked to think back to the most recent incident. Over half believe that their treatment was at least partly due to their race or ethnic background.

269. The report was introduced by Frances O'Grady stating:

Carried out under the auspices of our Anti-Racism Taskforce, the TUC's research shows that racism scars every aspect of working life. As well as determining who gets hired and fired, it also shapes Black workers' day-to-day experiences, from training and promotion opportunities to the allocation of shifts and holidays. Many BME workers

also told us they have experienced bullying, harassment and worse. Alarming, the vast majority did not report this to their employer.

Unsurprisingly, all this comes at a huge cost. Black workers' mental health suffers. Their confidence takes a hit. And many suffer in-work poverty, sometimes having to do two, or even three, jobs to make ends meet. This racism doesn't just wreck lives - it's used to divide working people and makes us all weaker.

As the global struggle for racial justice has intensified, race equality has become prominent on the political agenda. The Covid-19 pandemic highlighted inequalities hardwired into our economy and society, with BME workers more likely to do dangerous work, more likely to contract the virus and more likely to die from it. We know too that Black workers are on the frontline of insecure work, being massively over-represented on zero-hours contracts and in low-paid jobs. And this makes them especially vulnerable to the cost-of-living emergency now hammering working people.

This study underlines the overwhelming need for change. Despite commissioning report after report on race equality, the government has consistently failed to deliver the reforms we need. Instead of addressing the causes and consequences of discrimination, ministers have chosen to pursue dangerous narratives about race that divide working people.

270. As long as these structural inequalities remain prevalent, Black workers will continue to be placed at higher risk and will likely continue to face disproportionate impacts of future pandemics. There is therefore an urgent need to address this, including through basic employment rights and health and safety standards in those front line but poorly paid roles and insecure work in which BME groups are disproportionately overrepresented.

Pregnant women and mothers

271. Early in the pandemic, many pregnant women working in healthcare were concerned by the lack of official guidance as to how to keep themselves and their babies healthy while also caring and supporting pregnant women. RCM expressed its frustration at the continued lack of clarity from Government on the protection of pregnant health workers, pointing to the Prime Minister's public advice that all pregnant women were particularly vulnerable to Covid-19, which was made without consultation with RCM, undermined the

clinical evidence at the time, caused significant and unnecessary anxiety and was eventually withdrawn [Exhibit KB2/287 - INQ000192258].

272. RCM, the Royal College of Obstetricians and Gynaecologists (RCOG), the Royal College of Paediatrics and Child Health (RCPCH), the Royal College of Anaesthetists and the Obstetric Anaesthetists' Association jointly issued guidance on 21 March 2020, outlining how pregnant women working in healthcare settings could achieve the recommendation for everyone in the UK to limit unnecessary social contact and providing clarity for them and their employers [Exhibit KB2/288 - INQ000192259].

273. On 1 May 2020, Gill Walton, Chief Executive of RCM, gave evidence to the Health and Social Care Committee [Exhibit KB2/238 - INQ000119189]. Gill provided insight on a number of issues, including the disproportionate impact of the virus on women from BME backgrounds and RCM's BME staff, perinatal mental health, the increase in domestic abuse and the implications of that for pregnant women and the availability of PPE in the community setting, which had been an issue for midwives. Gill also explained the role that RCM and others had played in ensuring the publication of essential guidance, with the Royal College of Obstetricians and Gynaecologists, RCM and the Royal College of Paediatrics and Child Health pooling their knowledge, resource and expertise to produce guidance, most of which was used and referred to by PHE, the NHS and across the world. RCM continued to provide guidance for pregnant healthcare workers and for the care of pregnant women throughout the pandemic on a range of issues, supported by the latest scientific evidence and expert advice.

274. On 2 April 2020, the TUC launched a blog: *'Pregnant and worried about coronavirus? Here's what you need to know'* [Exhibit KB2/289 - INQ000192260]. The blog provided advice, as well as calling upon the UK Government to raise awareness of existing legal protections for pregnant workers.

275. On 11 June 2020, the TUC published a report, *'Pregnant and precarious: new and expectant mums' experiences of work during Covid-19, A TUC Women's Equality Briefing'* [Exhibit KB2/239 - INQ000119190], which reported on the results of a survey by the TUC of over 3,400 pregnant women and mothers on maternity leave to find out about their experiences of work during the pandemic. The report highlighted that:

- one in four pregnant women and new mothers had experienced unfair treatment or discrimination at work, including being singled out for redundancy or furlough;

- pregnant women's health and safety rights were being routinely disregarded, leaving women feeling unsafe at work or without pay when they were unable to attend their workplaces;
- low-paid pregnant women were almost twice as likely as women on median to high incomes to have lost pay and/or been forced to stop work (either by being required to take sick leave when they were not sick or to take unpaid leave, start their maternity leave early or leave the workplace altogether) because of unaddressed health and safety concerns; and
- 71% of new mothers planning to return to work in the next three months were at that time unable to find childcare to enable them to do so.

276. In its written evidence to the joint inquiry held by the Health and Social Care Committee and Science and Technology Committee, which began in October 2020, RCM set out in detail its observations on the Government's lack of clear communication and messaging on important issues concerning pregnant women [Exhibit KB2/240 - INQ000119192]. For example, they highlighted the Prime Minister's statement on the risk to pregnant women (referenced above) and the Government's failure to clearly explain and correct misinformation regarding maternity unit visits, with 70% of midwives experiencing abuse from pregnant women, their partners and families.

Disabled workers' experiences

277. In May 2020 Usdaw provided a response to the Women and Equalities Select Committee regarding the impact of Covid-19 on people with protected characteristics [Exhibit KB2/241 - INQ000119193]. Usdaw highlighted the difficulties faced by disabled members in receiving full pay during the pandemic, that it appeared that disabled workers in the 'Extremely Vulnerable Group' were more likely to be at risk of furlough and the lack of paid provision in place for disabled members who could not go into work because of their heightened risk of exposure to the virus. Usdaw pointed to a poor understanding and implementation of the disability provisions of the Equality Act by many employers and most managers, with reasonable adjustments threatened by employers focussing mainly on social distancing. Usdaw urged the Government to make it clear to employers that the duty to make reasonable adjustments was not affected in any way by the measures introduced to respond to the pandemic and the duty must be adhered to in all cases by employers. Usdaw also explained how the pandemic and the particular experiences of disabled members had shone a light on the low rate of SSP, in circumstances where the

disadvantages faced by some disabled workers might not be removed or reduced by reasonable adjustments resulting in those members having little option but to approach their doctor for a fit note and rely on SSP for income.

278. On 5 June 2021, the TUC produced a report setting out the results of its research into how pre-existing workplace barriers had been affected by the pandemic and the impact it had had on disabled workers: *'Disabled workers' experiences during the pandemic – a TUC report* [Exhibit KB2/242 - INQ000119194]. The TUC found that many of the pre-pandemic issues that affected disabled workers continued to affect those workers during the pandemic, such as difficulties in getting and keeping the reasonable adjustments necessary to work effectively.

279. On 10 December 2021 the TUC along with Maternity Action wrote to Maria Caulfield at DHSC, expressing concerns regarding the latest guidance for pregnant employees [Exhibit KB2/243 - INQ000119195]. The updated guidance published in November 2021 had removed reference to increased risks for women in their third trimester and affiliates had fed back to us that employers were now misinterpreting this as meaning they no longer had to take action to mitigate risks, including carrying out individual risk assessments and putting employees on maternity suspension if risks could not be mitigated. This came at a time when vaccine hesitancy amongst pregnant women was still high and the Omicron Variant was prevalent.

Women

280. In the TUC's response to the Women and Equalities Committee inquiry (see above, [Exhibit KB2/228 - INQ000119178]), we observed that the health, social and economic impacts of COVID-19 were highly gendered. The economic and health impacts of this crisis were most acutely affecting key workers and those employed on insecure contracts in shutdown sectors. These workers were more likely to be women. The TUC also observed that the vast majority of those working on the frontline of the crisis were women:

- Of the 3,200,000 workers at highest risk of exposure to COVID-19, 77% are women
- Women comprise 77% of healthcare workers, 83% of the social care workforce, 70% of those working in education
- Mothers are more likely to be key workers than fathers or non-parents, 39% of working mothers were key workers before this crisis began, compared to 27% of the working population as a whole.

281. The TUC also observed that women were more vulnerable to economic hardship during this crisis than men. Women were the majority of those providing care, whether paid or unpaid, doing three times more unpaid caring than men. They are more likely to be employed on insecure and zero-hours contracts than men, particularly BME and migrant women, and to be working part-time. Women are also more likely to be employed in service sectors that have been shut down because of social distancing measures, particularly younger women. More women are dependent on the social security system than men and are living in insecure housing situations, especially women on low-incomes and single mothers.

282. Similar gender disparities were apparent in the retail sector. Usdaw in its May 2020 response to the Women and Equalities Select Committee described that whilst most Usdaw members that are women are employed on short hours contracts, almost all of them regularly work more than their contracted hours. Many do not have access to statutory employment rights, such as SSP, the right to request flexible working or statutory maternity pay, due to low earnings and breaks in service. Usdaw highlighted that low paid women and migrant workers were bearing the brunt of the pandemic and would be disproportionately affected by any subsequent economic crisis. The pandemic reinforced existing inequalities and entrenched the discrimination women face both at work and in wider society [Exhibit KB2/241 - INQ000119193].

283. There were also gendered disparities in relation to PPE. Many of those working in care homes or as cleaners were not provided at an early stage with PPE while those that were issued with PPE frequently reported that it did not fit properly or that they were having to re-use single use equipment. A survey of members by Prospect, a union representing a range of professions including engineers, scientists and managers, conducted before the COVID- 19 outbreak, showed that women were overlooked when it comes to appropriate PPE [Exhibit KB2/290 - INQ000192261]. Size and fit are extremely important for PPE to be effective. If it doesn't fit it doesn't do its job, exposing workers to unacceptable levels of risk. Prospect's survey, which received 1,175 responses, showed that a significant proportion of workers who regularly use PPE experience problems with fit and size. The difference in experience between men and women is stark.

284. The gendered impacts of COVID-19 intersect with other characteristics such as age, ethnicity, disability, class and migration status resulting in different effects for different groups of women. Single mothers will also be particularly affected as their economic

position is often more disadvantaged and, in some cases, financially precarious as they rely on one source of income. Migrant women who have lost their jobs and are subject to the no recourse to public funds condition will be unable to access the safety net offered by the government through the benefits system. This leaves these women and their families without the means to cover their housing costs or to feed their families, risking destitution, malnutrition and homelessness.

285. Women also faced a greater risk of domestic abuse, which was exacerbated in the pandemic with social distancing and self-isolation measures and 'stay at home' advice. In May 2020, RCM issued guidance to midwives on identifying, caring for and supporting women at risk of domestic abuse during the pandemic [Exhibit KB2/244 - INQ000119196].

Migrant workers

286. In the TUC's response to the Women and Equalities Committee inquiry (as above [Exhibit KB2/228 - INQ000119178]), the TUC also reported that the coronavirus pandemic had highlighted that migrant workers were disproportionately represented working in occupations that keep the basic infrastructure of our communities functioning. These included jobs such as doctors or nurses or in less visible but equally important occupations such as care work, cleaning, food production or goods distribution. Many of these workers are BME and are more likely to be in non-permanent jobs (8%) than UK born workers (5%). Many are also involved in the gig economy and other less regulated sectors and are therefore vulnerable to abusive and unsafe employment practices under the current environment but have fewer outlets to seek help and keep themselves safe from coronavirus.

287. The concerns expressed by the TUC included: that many migrant workers who were eligible to receive money through the job protection arrangements or unemployment benefits may have low awareness of their entitlements or may be unfamiliar with the process of claiming or visiting job centres; about the effects on the hostile environment and the implications for migrant workers gaining access to and receiving health care and that the document checks required by the health charging system has increased the chances of discrimination in frontline service delivery against individuals with the protected characteristics of gender, race and ethnicity.

288. Significantly, there was a link between Covid-19 meat processing outbreaks and exploitation of migrant workers. Although conditions within refrigerated meat processing

factories were cited as a risk factor for transmission of the virus, it appeared to Unite that there was also a direct correlation between the treatment of migrant staff as 'disposable assets' and the spread of disease in such environments. Many of the most dangerous working conditions were preserved for migrant workers. Poor employment standards are often associated with overcrowded housing of workers, which was a further contributing factor to outbreaks within factories. For example, Unite found that 43 percent of respondents to a survey of workers in a meat processing plant, staffed overwhelmingly with migrant workers, lived with two or more colleagues, and 11 percent lived with five or more. Strikingly, nearly 65 percent of 150 respondents said they had attended work whilst unwell, with 69 percent of those indicating that they did so because they could not afford to lose pay. Just 10 percent had been tested for Covid-19.

289. A similar pattern of problems arose in relation to textile factories. There were reports of clothing factories in Leicester claiming to have closed, but in fact continuing to operate behind closed doors [Exhibit KB2/291 - INQ000192262]. Workers reported a complete lack of any safety measures. The company 'Bohoo' which predominantly relies upon garments produced in Leicester, was compelled to launch an investigation after reports of the company's suppliers being among those paying wages as low as £3.50 per hour and breaching coronavirus safety guidelines, with huge volumes of production without any adequate social distancing [Exhibit KB2/292 - INQ000192263]. An informative report was produced by Labour Behind The Label [Exhibit KB2/249 - INQ000119201], which pointed towards the vulnerabilities linked to ethnicity, with a predominantly minority ethnic work force, many of whom are vulnerable to abuse as a result of their immigration status, language skills, integration in the community, higher unemployment rates, and links to modern slavery and trafficking. That was a significant part of the picture in terms of the disproportionate impact of Covid-19 upon BAME groups.

The young

290. The TUC noted on a number of occasions that younger workers were particularly affected by job losses associated with the pandemic. For example, see the report '*Young workers are most at risk from job losses due to the coronavirus crisis*' (12 June 2020) [Exhibit KB2/245 - INQ000119197], '*Jobs and Recovery Monitor – Young Workers*' (19 November 2020) [Exhibit KB2/246 - INQ000119198], and the update on younger workers (27 March 2021) [Exhibit KB2/293 - INQ000192264].

G. CONCLUSIONS AND LESSONS LEARNED

291. 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.

292. 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.

293. The TUC believes that there are some key lessons to be learned from the matters being considered in module 2 of the Inquiry:

- (a) **Social partnership:** A pandemic requires a national, urgent and truly collaborative effort. There is a need for government to work in partnership with employers and employees, across a range of sectors. Representative groups, such as trade unions, have an important role to play in advising and providing feedback upon the development and implementation of NPIs. The ad-hoc mechanisms arranged hastily by the UK government and only after the outbreak of the pandemic were ineffective, and resulted, more often than not, in the provision of top-down information rather than genuine consultation and collaboration. There should be robust systems for social partnership in place in advance of a pandemic. Such systems can also engage representatives of employers and employees in pandemic planning. The value of national collective bargaining and social partnership with trade unions was most apparent in the contrast between the two main sectors covered by DHSC – health and social care. In health, national solutions and guidance for issues on infection control, PPE, risk assessments, sick pay, return of retirees to professional registers and so on could be consulted upon quickly and clear and consistent guidance issued that could be implemented within hours. In social care, with no collective bargaining and meaningful stakeholder forums there was imperfect information, delay and inadequate solutions and guidance for the challenges of the pandemic.

- (b) **Self-isolation and sick pay:** Self-isolation without adequate provision of sick pay is problematic. It is grossly unfair to front line workers on low pay who face increased debt and hardship in self-isolation. It also undermines the effectiveness of self-isolation as an NPI, as it forces people to choose between not self-isolating when they should do so and placing themselves and their families into debt. A fit for purpose sick pay system, accessible to all and set at a liveable rate, is integral to the success of any public health intervention of this scale.
- (c) **Guidance on NPIs in the workplace:** For NPIs to be effective in the workplace, there is a need for clear and practical guidance, produced at an early stage. The UK government will be much better placed to do so if it engages proactively and constructively with unions. Guidance should be produced which is relevant and bespoke to all key sectors, informed by intelligence from workplace settings and workers on the frontline.
- (d) **PPE:** The failure to stock sufficient numbers of PPE in line with pandemic planning was exacerbated by the challenges mentioned in (a) above, with a sense of frustration that these forums such as the DHSC Social Care working group would have to raise the concerns of PPE time after time which then received promises but little sign or sense of change or challenges being overcome. The delays ultimately meant some workers were left exposed to Covid-19 in their workplaces, lessening capacity in already over stretched and underfunded services, by staff having to self-isolate after catching the virus. This was further compounded by inadequate resources of PPE reaching other sectors such as transport which could act as a hub for the virus and meant the R rate of Covid-19 could increase as more people were exposed across public transportation even whilst limited to only key worker use. It is vital that in future the stockpile recommendations for PPE are not only met, but that unions and therefore the workforce, are able to feed into what PPE provision is needed across sectors.
- (e) **Monitoring and enforcement of health and safety in the workplace:** In order to preserve lives and manage a pandemic effectively, NPIs must be applied consistently across workplaces. Many employers acted responsibly, and many consulted with union safety reps. However, some employers did not. Even a modest proportion of dangerous workplaces can cause outbreaks of the virus in the communities in which they are based, and cost lives. Yet the means to monitor and enforce workplace safety

was virtually non-existent. There is no substitute for the proper funding of the HSE and local authority health and safety enforcement.

(f) **The disparate impacts of the pandemic:** It must be recognised that many of the disparate impacts of the pandemic were associated with insecure and poorly paid work, in workplaces with poor health and safety, and poor mechanisms for monitoring and enforcement of health and safety. Many such workplaces were also at the back of the queue when it came to PPE. The disparate impacts of a future pandemic will be greatly diminished by:

- i. Addressing the structural inequalities and discrimination in the labour market and in workplaces that place some groups of workers, particularly Black workers, at higher risk.
- ii. 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.
- iii. The provision of basic employment rights, particularly secure work rather than false self-employment, and adequate sick pay;
- iv. 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;
- v. The availability of adequate PPE.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed:

Personal Data

Kate Bell

Dated: 24 May 2023