

## **WITNESS STATEMENT OF ROZANNE FOYER (STUC)**

1. I am Rozanne Foyer, General Secretary of the Scottish Trades Union Congress (STUC), my office address is STUC, 8 Landressy Street, Glasgow.
2. I make this statement on behalf of the STUC in response to a letter dated 14 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
3. This statement is made for the purposes of module 2A of the Inquiry which is examining the Scottish Government's core political and administrative decision-making between early January 2020 and May 2022, when the remaining Covid-19 restrictions were lifted in Scotland
4. This statement is structured as follows:
  - Introduction
  - Part A: Structure, People and Processes
  - Part B: Liaison and communication with the Scottish Government;
  - Part C: Public health communications and public confidence;
  - Part D: The Public health and coronavirus legislation and regulations.
  - Part E: Impact on STUC members
5. **Introduction**

The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC is the national lobbying, campaigning, and co-ordinating body for trade unions in Scotland and represents over 545,000 trade union members via their affiliated trade unions.
6. The STUC has well established relationships with members of the Scottish Parliament, Scottish Government and other national civil and public bodies in Scotland. The STUC regularly meets with appropriate Scottish Government Cabinet Secretaries, Ministers and senior officials across all portfolios and directorates.

7. The STUC was established in 1897 and is a key civic organisation in Scotland. Successive Scottish Government's since devolution in 1999 have actively engaged with the STUC, albeit taking a variety of approaches. The current Scottish Government has a stated aim for Scotland to become a leading Fair Work nation by 2025 <sup>1</sup>. This framework identifies the value placed on trade unions as the effective voice of workers in Scotland and provided the backdrop to initial joint responses to the pandemic by Scottish Government and the STUC.
8. Workers across Scotland faced huge challenges both personally and in their working lives as the pandemic escalated and unprecedented action was taken to restrict individual movement, introduce lockdowns and close the economy. Workers in essential services including health, social care, transport, education, emergency services, energy, retail, and local authorities were called upon to work on the frontline, often putting themselves and their immediate families at risk.
9. The STUC was uniquely placed to gather information, identify concerns and offer advice due to our representative structures covering every part of the private, voluntary and public sector in Scotland. The STUC was uniquely placed because it represents over 540,000 workers across all sectors in Scotland. In addition, its representative structure enabled direct reporting and feedback from key workers who were delivering emergency and essential services. Further details of this are set out in 35 below. Jointly with affiliates we worked quickly to utilise pre-existing structures and established internal processes to support engagement with the Scottish Government. The STUC utilised its existing systems, including the convening of industrial sector unions, for example in energy, transport and culture. Other industrial sectors were already covered by existing arrangements including health and social care, which was being addressed through NHS STAC, and ministerial groups on further and higher education. In addition, it established new processes, for example, utilising an active social media strategy through which workers were asked to report directly to us regarding specific concerns. We also established the Covid Group, details of which are set out below in paragraphs 32 to 37. Ministers and officials welcomed this approach and I believe it provided them with factual and experiential evidence to inform their decisions. This included a variety of matters, for example, workplace health and safety concerns; financial impact on those we represent; non-

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<sup>1</sup> <https://www.gov.scot/publications/fair-work-action-plan-becoming-leading-fair-work-nation-2025/documents/> [RF/56 - INQ000215610]

workplace public health concerns, such as key workers travelling to work; the experience of union members working in compliance, for example health and safety officers; lack of financial support for certain individuals, for example taxi drivers; the difficulties and issues faced by care workers; and also the raising issues of persistent non-compliance by employers where escalation to Scottish Government became necessary. This was primarily fed to the Scottish Government via the Covid Group meetings, but also through other avenues such as the Safer Workplaces advisory group established by the Scottish Government, on which the STUC was represented. Most of the feedback to Government was verbal, but there are minutes retained for internal use only, which I have more fully detailed and referred to in paragraph 37 below. The Scottish Government would thereafter create a list of actions to be agreed, and a system to track progress, which I have more fully detailed and referred to in paragraph 36 below. Our role was to highlight the key issues, which government and the affected affiliated union would take forward themselves. Given the volume of issues arising, at our request the Scottish Government agreed to establish a hotline to allow individual concerns to be raised directly with them to manage the number of matters to be raised and addressed via at the Covid Group meetings.

10. While the STUC supported many of the decisions made by the Scottish Government there were clear areas where we urged them to take action sooner, or where we disagreed with their judgement. These are more fully described later in this statement, but by way of example included acting sooner on the roll out of PPE (which I have detailed in paragraphs 41 to 46 below); a failure to close workplaces such as construction sites when other areas of the economy were closed (which I have detailed in paragraphs 47 to 49 below); allowing colleges and universities autonomy on operational decisions relating to students returning to campus and the re-introduction of in-person or blended learning, as opposed to remote learning remaining the default (as more fully described in paragraph 50 below); decisions on school closures being made on a Scotland-wide basis, as opposed to allowing local authorities in Scotland the power to close schools on a regional basis (as more fully described in paragraph 51 below); acting sooner on the financial impacts and necessary funding referred to in paragraphs 53 to 55 below; reducing social distancing from 2m to 1m in certain situations, as outlined in paragraph 59; a failure to top-up furlough pay to ensure workers receive 100% of salary; and, acting sooner to introduce financial support for care workers (as more fully described in paragraphs 39 to 41 below). The STUC informed the Scottish Government about these issues

and set out its views on them (before, during and after the decisions made) during the Covid Group meetings, other meetings and in communications all as outlined later in this statement.

In general, engagement with the Scottish Government was positive and it did consider our concerns, even though, as outlined above, it did not always agree with us (or action our concerns) in their final decisions. Where we disagreed, and remained in disagreement, the Scottish Government would generally be in a position to explain their rationale to us.

Engagement was especially positive earlier in the pandemic when public health was the priority. Later the balance of harms shifted to economic harms as sectors began to open up.

As outlined later in this statement, there were occasions when views were sought at very short notice. Also, there were areas where we felt there was insufficient engagement with the STUC. This included, for example, very limited engagement with the STUC on the vaccination roll-out, including our views on the priorities for certain types of workers beyond those in health and social care. To the extent we were consulted by the Scottish Government, it appeared the decisions had already been made. Another example concerns the return to office working. On this matter the Scottish Government consulted fully with the Chamber of Commerce but had limited engagement with the STUC. It is difficult to say the extent to which better engagement on these matters may have impacted any final decisions or judgements made by the Scottish Government.

11. We also experienced a number of frustrations that some actions that the Scottish Government appeared to agree were essential, or at least may have been recognised, could not be implemented by the Scottish Government due to limits of devolution and a lack of financial support from the UK Government.

Framing the pandemic response correctly in public health policy allowed the Scottish Government to provide regulations and guidance to employers regarding workers safety. However, the lack of control over employment laws often limited the response, actions and funding that the STUC and Scottish Government agreed were required.

Frustrations felt by the STUC included, for example, the need for an expanded statutory sick pay and an increased furlough scheme. Also, to protect jobs, we highlighted the importance of the Scottish Government making payment of the Coronavirus Small Business Support Scheme automatically conditional upon on the retention of workers. This could not be implemented by the Scottish Government because they would not have access to HMRC records which could immediately identify which employers had been in receipt of furlough support. In addition, frustrations arose due to decisions on furlough being retained to the UK Government. On several occasions it had been intimated that the furlough scheme would end on a particular date, only for it to be extended at the last minute. This created a 'cliff edge' which may have caused unnecessary jobs losses as employers were unable to guarantee pay via furlough, and was damaging for workers and the economy. We also believe it unnecessarily forced the Scottish Government to agree and plan for the re-opening of certain sectors.

We don't know how these issues were addressed between the Scottish and UK governments. The STUC were however able to raise some issues directly with the UK Government. This includes, by way of example, a letter from the STUC to the Chancellor of the Exchequer dated 8 March 2020 [RF/48 -INQ000215539]; a letter to the Secretary of State for Business, Energy and Industrial Strategy dated 08 May 2020 [RF/49 - INQ000215540]. I met with UK Government representatives on several occasions including the Scottish Secretary of State, Alistair Jack on 9<sup>th</sup> April and 15<sup>th</sup> May 2020 and a UK Ministers Roundtable on 23<sup>rd</sup> September 2020. I also met with Scotland Office Minister, Ian Stewart, on 18<sup>th</sup> June 2020, 17<sup>th</sup> July 2020 and 30<sup>th</sup> Sep 2020. The UK Government will have a full note of these meetings. Our views and concerns were not resolved.

The majority of engagement with the UK Government would have been carried out by our sister organisation, the TUC.

A further key concern related to the fact that workplace health and safety law and enforcement is a reserved matter. We believe that the Scottish Government would have in a better position to act more effectively, and meet their public health obligations more effectively, had this been devolved to Scotland. This significantly affected their powers and ability to ensure better monitoring and enforcement of workplace guidance.

The HSE seemed to be taking no responsibility for promoting the workplace guidance issued by the Scottish Government. The HSE were represented on the Safer Workplaces advisory group, and over time engagement by HSE did improve, as did their interaction with Local Authority Environmental Health. It is very important to recognise, however, both the HSE and Local Authority Environment Health are hugely underfunded and under-resourced.

Another key concern and frustration was that, compared to the Scottish Government, the UK government was more keen to the relaxations of lockdowns. Also, there were key differences in safety measures, for example, there were periods in which the wearing of face coverings were mandatory in Scotland, but not elsewhere. The differing advice caused confusion in the public messaging on mandatory face coverings and often resulted in tensions and abuse for workers who were tasked with requesting the public, or customers, to follow the guidance.

12. Alongside our representative structures across economic sectors we convene representatives from the main protected characteristic groups including black workers, disabled workers, LGBT+ workers, young workers and women. We recognised that pre-existing structural inequalities were laid bare as these groups were further vulnerable to health, financial and employment risks during the pandemic. These are outlined in the Scottish Government Equality Impact Assessment of the Coronavirus Fair Work Joint Statement<sup>2</sup>. Pay inequality, pay gaps and endemic low pay in some industries along with precarious working conditions further increased risks to some groups of workers.

### **13. Part A: Structure, People and Processes**

The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC represents over 545,000 trade union members in Scotland from 42 affiliated trade unions and 20 Trades Union Councils. It is governed by the STUC General Council who are elected annually at the STUC

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<sup>2</sup> [https://www.gov.scot/publications/coronavirus-fair-work-joint-statement-equality-impact-assessment-results/\[RF/55-INQ000215608\]](https://www.gov.scot/publications/coronavirus-fair-work-joint-statement-equality-impact-assessment-results/[RF/55-INQ000215608])

- Congress. The STUC is the national lobbying, campaigning, and co-ordinating body for trade unions in Scotland.
14. A subcommittee of General Council, the Administrative and General Purposes Committee, takes responsibility for oversight of management and finance. The STUC Secretariat, General Secretary and two Deputy General Secretaries, represent the organisation eternally supported by a team of policy, campaigns, and operational staff.
  15. The STUC also hosts Scottish Union Learning projects and staff team who are externally funded to manage trade union training and learning in partnership with affiliated trade unions. Scottish Union Learning is a legally separate body with independent finances and is governed by the Scottish Union Learning Board.
  16. The constituted purpose of the STUC is to co-ordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland reflecting the aspirations of trade unionists as workers and citizens. This is supplemented by the STUC's Vision and Mission:
    - to build a strong, influential, and globally aware trade union movement that champions equalities & delivers a fundamental shift in wealth, wellbeing and power towards workers, our families, and communities in Scotland and beyond;
    - To support our affiliates to educate, agitate, organise and build a movement for change in our workplaces and communities
  17. In practice, the STUC is the national lobbying, campaigning and co-ordinating body for trade unions in Scotland. The STUC focuses campaigns and lobbying on all devolved matters including education, health and social care, local government and transport.
  18. The STUC primarily focuses on relationships with the Scottish Parliament, Scottish Government and other national civil and public bodies in Scotland. The STUC holds biannual meetings with Scotland's First Minister and has frequent engagement with the Deputy First Minister, Cabinet Secretaries, Ministers and senior officials across all government directorates as required.
  19. The STUC consists of trade unions that are affiliated to the TUC and who have members in Scotland and Trades Union Councils in Scotland registered with the

STUC. I exhibit a list of affiliated trade unions and Trades Union Councils [RF/1 – INQ000107190].

20. The STUC maintains a formal relationship with the TUC, Wales TUC, and Irish Congress of Trade Unions. The STUC works in partnership with the TUC on non-devolved areas of policy. The STUC also lobbies and campaigns directly with Westminster on UK non-devolved policy issues when deemed necessary or appropriate by our affiliates.

21. The STUC has 32 staff members. I exhibit an organisational chart [RF/2 - INQ000107209]. In addition to me, those carrying out specific organisational roles are:

- Dave Moxham – Deputy General Secretary;
- Linda Somerville – Deputy General Secretary;
- Sarah Wiktorski – Director of Operations;
- Wendy Burton – Director of Scottish Union Learning.

I started in my role as General Secretary Designate on 16 March 2020. I worked alongside Grahame Smith, outgoing General Secretary until his retirement in June 2020, taking on full operational responsibilities as General Secretary from the 1 May. Helen Martin was Assistant General Secretary, later Deputy General Secretary, at the STUC during the initial period of the pandemic. Helen left the organisation in October 2020 and was replaced in December 2020 by Linda Somerville. Yvonne Stewart was also an Assistant General Secretary who left the organisation in May 2020. Following her departure, I created a new role of Director of Operations, to which Sarah Wiktorski was appointed in August 2020.

In relation to matters occurring prior to 16 March 2020, David Moxham, Depute General Secretary will be able to provide any additional information you may require. Alternatively, my predecessor, Grahame Smith and Helen Martin, former STUC Deputy General Secretary will be able to assist, as may the STUC President from April 2019 to November 2020, Jackson Cullinane.

## **22. Part B: Liaison and Communication with the Scottish Government**

The STUC has a successful history of engagement and working with devolved government in Scotland. For a number of years we have held formal biannual meetings with Scotland's First Minister. These meetings include a number of General



Council members representing our largest affiliated trade unions. The First Minister is also usually invited to speak at the annual STUC Congress. We have frequent engagement with the Deputy First Minister, Cabinet Secretaries, Ministers, and senior officials across all government directorates as required. Prior to the pandemic the STUC raised concerns and offered input to the Scottish Government on a range of issues as deemed appropriate by our affiliates. Alongside formal meetings with Cabinet Secretaries and Ministers, the STUC had open channels of communications with civil servants, key officials, and special advisors where issues could be raised or feedback given on policy decisions and their implementation.

### **23. Fair Work in Scotland**

The STUC was instrumental in the creation of the Fair Work Convention and worked with Scottish Government to create the principles of Fair Work in Scotland. The Scottish Government established the Fair Work Convention in 2015. The FWC acts as an independent advisory body to Scottish Ministers and has four representatives from the STUC as members of the Fair Work Convention. At the time this included myself, and Grahame Smith, former STUC General Secretary, who was the first co-chair of the Fair Work Convention. Fair Work is embedded throughout Scottish Government and is overseen by a Scottish Government Minister with responsibility for delivering the Scottish Government Fair Work Action Plan. Fair Work is defined as:

“work that offers all individuals an effective voice, opportunity, security, fulfilment and respect. It balances the rights and responsibility of employers and workers. It generates benefits for individuals, organisations, and society”<sup>3</sup>.

While supportive of Scottish Government’s approach to Fair Work we continue to lobby Scottish Government to meaningfully implement Fair Work in their commissioning and procurement practices and enforce this across all public bodies.

24. While employment law is reserved to Westminster the Scottish Government utilises Fair Work policy to promote inclusive growth and influence employers to improve employment practice and consequently the experience of workers. Utilising the Fair Work First guidance, the Scottish Government, asks businesses bidding for a public

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<sup>3</sup> <https://www.fairworkconvention.scot/the-fair-work-framework/> [RF/57 - INQ000215611]

contract to “adopt a number of practices including payment of the Real Living Wage and appropriate channels for effective voice, such as trade unions”.<sup>4</sup>

25. The STUC were regularly represented on Scottish Government working groups including Scottish Energy Advisory Board and Enterprise and Skills Strategic Board along with appointments to formal government commissions including Just Transition Commission.

26. This regular engagement and established working relationships between the STUC and the Scottish Government provided a basis for the liaison and communication during the pandemic.

#### **27. STUC engagement with Scottish Government**

We received a letter from Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture on 5 March 2020 informing us of the publication of a four nations action, asking us to share it with our members and inviting my predecessor, Grahame Smith to a meeting to consider the steps the Scottish Government could take to help workers. [RF/3 - INQ000107220]

28. We made an initial request to Kate Forbes, Cabinet Secretary for Finance, by letter of 12 March 2020 asking for employers in receipt of government support to commit to:

- Continuing to provide full pay to workers who are off sick or self-isolating;
- Relaxing the rules on doctors’ notes, recognising the scale of the crisis and the increasing pressure providing documentation places on health services;
- Discounting sick leave during the Covid-19 crisis from the normal sickness absence policy so that workers are not disciplined or dismissed for meeting public health guidance;
- Paying workers based on normal (rather than contracted) working hours, supporting workers on zero hours contracts;
- Providing paid carers leave for workers who are unable to attend work due to caring responsibilities during the Covid-19 emergency [RF/4 - INQ000107231]

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<sup>4</sup> <https://www.gov.scot/publications/implementation-of-fair-work-first-in-scottish-public-procurement-sppn-6-2021> [RF/58 - INQ000215611]

29. We met with Fiona Hyslop, as previously requested, on 16 March 2020. We shared concerning reports from members of their experiences to date including:

- A lack of meaningful consultation by employers across the public sector over their response to the crisis;
- Failures and inconsistencies in the provision of vital PPE to a range of staff including ambulance drivers and care workers, a possible consequence of supply chain inadequacies;
- Inconsistencies in the approach of employers to protecting workers in high-risk groups including those who are pregnant and those who face underlying health issues;
- An unnecessary delay in closing some key non-essential public buildings such as museums and galleries; and
- High levels of confusion in colleges and universities with actions taken without consultation or regard for the concerns of the workforce.

30. While an official lockdown had not yet been announced large numbers of students were where possible returning home and some classes, courses and campuses were closing. This was up to the discretion of each further or higher education institution with no national guidance. On 20 March 2020 we wrote to Richard Lochhead, Minister for Further Education, Higher Education and Science asking for “urgent, clear and informative sector-wide guidance”. We raised specific concerns for workers on precarious contracts and asked for trade unions to be involved in all strategic discussions in universities and colleges regarding crisis response and workforce planning. [RF/5 - INQ000107241]

31. In addition to these initial meetings we were working with Scottish Government officials to draft a statement on Fair Work. This was discussed at a meeting with Fiona Hyslop on 24 March 2020 where we agreed to promote the statement with a joint press release. The resulting Coronavirus (COVID-19) Fair Work statement was issued on 25 March 2020 and gave a number of assurances on supporting workers to follow public health advice and on sick pay:

*“the success of Test and Protect depends on employers supporting workers to self-isolate when advised to do so, without any financial detriment.” And*

*“no worker should be financially penalised for following medical advice. Any absence relating to Covid-19 should not affect future sick pay entitlement or other entitlement like holiday or accrued time”. [RF/6 - INQ000107242]*

32. This addressed significant issues as unions were already reporting concerns around workers being prevented from self-isolating due to pressure from employers to attend work or facing financial stress due to lack of sick pay.
33. The meeting with Fiona Hyslop on 24 March 2020 was attended by ten members of STUC General Council along with two STUC staff members. We agreed to hold these meetings twice weekly with communication in between with Scottish Government officials to progress concerns raised and feedback on issues. These meetings became the Covid Group meetings attended by a range of representatives from our larger affiliates. Cabinet Secretary, Fiona Hyslop, attended the meetings until May 2020 when STUC and Scottish Government regular meetings were handed over to Jamie Hepburn, Minister for Business, Fair Work and Skills.
34. The Covid Group meetings continued throughout the pandemic moving to weekly, then monthly, with the last meeting held on 29 March 2022. The group was expanded in October 2020 to include the elected Chairs of STUC Equalities Committees. These members represented our Black, Disabled, LGBT+, Women and Youth membership sections.
35. The agenda for Covid Group meetings was agreed by STUC and Scottish Government officials in advance of meetings. Items for the agenda were gathered by the STUC from a pre-meeting with the Covid Group members who raised issues reported to them from their industrial sector, workplace representatives or specific equality concerns. Trade unions are found in every economic sector across Scotland with a network of workplace representatives, equality representatives and health and safety representatives organised through trade union branches. This representative structure was used to raise concerns, ask questions and report issues or potential breaches of guidance or regulations by employers. Representatives reported these concerns to trade union full time officials who in turn referred them to members of the Covid Group. This provided the Scottish Government Cabinet Secretaries, Ministers and officials with an insight into workers' experiences and challenges, especially those of key workers in the early stages of the pandemic who were putting themselves a risk to carry out their roles.

36. The specific timeframe for the Covid Group weekly meetings was agreed as:

- Scottish Government to notify STUC by Wednesday morning at the latest of any agenda items
- STUC to hold pre-meeting with affiliates Wednesday afternoon.
- STUC to brief officials of agenda items for meeting by Wednesday at 5pm.
- STUC to provide attendance list by 9am Friday for call at 11am
- Following meeting the Scottish Government provides STUC with list of actions to be agreed
- Scottish Government provides STUC with a weekly action's tracker
- Scottish Government provides STUC with an updated dashboard on sectoral guidance when required.

[RF/18 - INQ000107207] [RF/8 - INQ000107244] [RF/9 - INQ000107245] [RF/10 - INQ000107191]

37. The Covid Group meetings were minuted by STUC staff, usually Shona Scott, Committee and Admin Officer. These minutes were not signed off or agreed by the Scottish Government and were intended for the STUC's internal use only. Covid Group meeting agendas, notes of meetings and letters were stored by STUC although a formal data retention policy was not in place at the time. [RF/12 - INQ000107195] [RF/14 - INQ000107203]

38. In addition to the Covid Group standing meetings, we met with Scottish Government Cabinet Secretaries and Ministers as required focusing on specific industrial sectors, for example:

- The STUC Covid Group met with Michael Mathieson, Cabinet Secretary for Transport, Infrastructure and Connectivity and Paul Wheelhouse, Minister for Energy, Connectivity, and the Islands as required to discuss transport guidance, workforce issues and concerns around public health and transport. [RF/15 - INQ000107204]

Scottish Government provided a Dashboard with a list of other groups that provided input and advice in the development of guidance for a variety of sectors. Sectoral groups had representation from relevant trade unions, but not necessarily from the STUC. We also held regular meetings with Scottish Government officials to pull together agendas and to offer further clarity and information for agenda items scheduled for meetings with Ministers. There were no informal meetings held with the Scottish Government. Any text messages sent to Scottish Government officials were regarding the arrangement of meetings or to ask for progress updates on items already reported at meetings. [RF/16 - INQ000107205]

### 39. Self-Isolation and Sick Pay

As noted above, concerns about lack of sick pay and the requirement to self-isolate was a significant issue that we raised with the Scottish Government throughout the early stages of the pandemic. The issue impacted various groups of workers but was of particular concern in social care, hospitality, and retail where workers were likely to be on lower wages and had higher exposure to risk. While hospitality was closed during lockdowns and had limited opening at other stages, the issue was of concern when workers returned to cafes, restaurants, bars, and hotels.

40. At a meeting with Jeanne Freeman, Cabinet Secretary for Health and Sport and Jason Leitch, Scottish Government National Clinical Director on 13th May 2020 we raised the issue of sick pay, in particular providing feedback from social care where the note of the meeting states:

*“in terms of care homes, whole home testing and that the levels of positive tests for those showing no symptoms is coming back high. .... also advised that they are picking up from the workforce, that workers are afraid of being tested in case they test positive and therefore end up in isolation at home on SSP. .... further brought up the testing of agency staff and wished to hear the Scottish Government’s views whether staff moving from home to home should be tested.”*

The Cabinet Secretary noted that care workers are on low wages and agreed to further consider the issue. On 24 May 2020, she announced funding for social care workers to receive enhanced sick pay when they are self-isolating following a positive Covid-19 test<sup>5</sup>. The resulting Social Care Support Fund has been extended on several occasions and is in place until 31 March 2023. In addition to targeted support

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<sup>5</sup> <https://www.gov.scot/news/supporting-scotlands-social-care-workers/> [RF/54 - INQ000215614]

for social care workers, the Self-Isolation Support Grant was introduced by the Scottish Government on 13 October 2020. The £500 grant supported low paid workers who were asked to self-isolate by Test and Protect and faced financial hardship.<sup>6</sup> [RF/17 - INQ000107206]

#### 41. PPE

We were aware of reports from trade unions at an early stage of the pandemic that staff in a variety of settings were not receiving PPE. This was raised with the Scottish Government frequently in meetings including with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture, on 24 March 2020, when we made her aware that ambulance workers were about to run out of masks. Meetings with the Scottish Government and unions representing health and social care workers took place separately from Covid Group meetings. Issues were progressed in detail at the Health and Social Care meetings with updates provided to the Covid Group meetings or issues escalated if still outstanding.

42. The concerns around PPE did not only apply to health and social care as we reported the ongoing issue surrounding postal workers and the lack of PPE at meeting with Fiona Hyslop on 3<sup>rd</sup> April 2020. It was reported that there had been a number of walkouts at Royal Mail as managers were informing postal workers that PPE was not required and washing hands regularly should be sufficient. Postal workers provided essential services and as key workers needed to have full access to PPE for their health and safety. [RF/18 - INQ000107207]

43. We conducted an online survey in the last week of March 2020 and reported that over half of respondents required to work didn't feel safe with 42% saying they did not have access to adequate PPE. [RF/19 - INQ000107208]

44. We received a copy of the draft Scottish Government PPE Action Plan on 29 September 2020 asking for feedback and comments to be returned by 30 September 2020. The plan contained a note of the roles and responsibilities of employers, the action being taken to support social care staff and outlining plans for the period ahead. We collated responses from members of the Covid Group and responded on issues related to Fair Work and procurement of PPE.

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<sup>6</sup> <https://www.gov.scot/news/self-isolation-support-grant-now-open/> [RF/53 - INQ000215613]

45. Separate groups were set up by the Scottish Government to address issues related to PPE in social care and manufacturing and supply. Trade union representatives were involved in these groups while the STUC was not directly represented. The Scottish Government set out to address the early issues with overall supply with a range of Scottish companies repurposing their manufacturing to supply PPE.

46. As part of a later STUC research project published in April 2021, "Who is winning from Covid" by Laurie MacFarlane and Christine Berry, the researchers outlined the Scottish manufacturing response to PPE supply and highlighted the lack of evidence around procurement and the enforcement of companies taking a "Fair Work First" approach. [RF/20 - INQ000107210]

**47. Closure of workplaces**

The failure of employers to close non-essential workplaces and attempt to utilise exemptions or flexibility in guidance was a recurring theme in Covid Group meetings. Despite the UK Government announcement on 24 March 2020 that all non-essential workplaces should close, the STUC were inundated with reports from affiliates about employers remaining open or instructing staff to attend workplaces unnecessarily.

48. On 31 March 2020 we met with Fiona Hyslop and reported and named a number of employers who were not operating essential work yet remained open including examples from non-essential food production and construction. We asked Scottish Government to provide clear guidance on the scope of essential and non-essential work to provide clarity for workers. [RF/21 - INQ000107211]

49. I issued a media statement on 31<sup>st</sup> March 2020 stating our concerns and calling for the Scottish Government to produce tighter guidance [RF/22 - INQ000107212]:

*"Among our priorities for the meeting today will be the need to issue clear and decisive guidance in sectors such as food and drink, manufacturing, and construction. In food and drink, reports from both union and non-union workplaces suggests that some employers are playing fast and loose with the concept of essential.....We are also deeply concerned about the situation in construction. The Scottish Government was right to warn Morgan Sindall in Glasgow not to resume its work on the Sighthill Project, but there is still a great deal of confusion out there which tighter guidance and firm messaging could help resolve"*



50. Sector specific guidance was developed for schools, further and higher education. This guidance was repeatedly reviewed and updated with input from trade unions on sectoral working groups. Some issues were also reported, updated upon, or escalated at Covid Group meetings. Specific concerns were raised at a meeting with Jamie Hepburn, Minister for Business, Fair Work and Skills, on 2 October 2020 around the failure to provide clear guidance to colleges and universities that were proceeding with re-opening and in some instances insisting that lecturers attend campus to deliver in person classes. Several universities were insistent on the move to blended learning and in person classes, often as a means to ensure students were on campus rather than distance learning. We supported calls for remote learning to be the default and for colleges and universities to be seen as workplaces and closed while alternative education delivery was possible. We challenged Scottish Government's statements that higher education institutions had autonomy when making operational decisions around returning to campus and called for Scottish Government to intervene and provide clarity for workers to protect workers [RF/23 - INQ000107213]. The guidelines were not amended to reflect these concerns. There remained only universal guidance and flexibility was retained by colleges and universities on an operational level which allowed them to open in certain areas and ask staff to return to work. We accept that the Scottish Government took into account the views and concerns of the STUC, but disagreed with the decision reached.

51. Similar issues were raised repeatedly around schools when consideration was given to re-opening and later closures of schools. We called on the Scottish Government to allow local authorities in Scotland the power to close schools on a regional basis rather than a decision by Scottish Government to close all schools across Scotland. [RF/24 - INQ000107214]. The Scottish Government's approach was not changed to reflect these views and concerns. We accept that our views were taken into account but we disagreed with the decision to close schools on a Scotland-wide basis. Further to closure of campuses and schools we raised concerns around the lack of adequate ventilation in schools, colleges and universities where large number of pupils and students were present. all staff including support staff to be given priority for vaccination and testing to prevent outbreaks in schools, further or higher education population. [RF/25 - INQ000107215] [RF/26 - INQ000107216]

52. The announcement by the UK Government on 5 November 2020 to extend the Job Retention Support Scheme (furlough scheme) to March 2021 resulted in some financial support for workers allowing us to call for the Scottish Government to consider the closure of educational establishments as well as all non-essential workplaces at a higher level of restrictions. We also requested clarity on the transmission risks inherent in schools, colleges and universities should they remain open as workers were now required to use public transport to travel across local authority boundaries. [RF/27 - INQ000107217]

### **53. Funding for self-employed and freelancers**

From 2 April 2020 we held fortnightly meetings between STUC creative industries unions – BECTU/Prospect, Equity, Musicians' Union, the Scottish Artists Union, and the National Union of Journalists – and Scottish Government officials from Creative Industries, Screen and Media. Creative Scotland officials joined these calls from May 2020. New affiliates the Scottish Society of Playwrights and the Writers' Guild of Great Britain subsequently joined these calls.

54. These meetings centred around health and safety in the creative industries and the need for financial support for creative workers falling through gaps in UK Government support, including PAYE freelancers; workers self-employed less than 50% of the time; self-employed workers for less than a year; self-employed freelancers operating as single person companies; those with yearly profits of over £50,000; and self-employed workers on maternity leave. We also used these meetings to highlight that not all employers were accessing the furlough scheme to protect jobs – for example Horsecross Arts, which fired a number of staff despite being publicly funded. [RF/28 - INQ000107218] [RF/29 - INQ000107219]

55. Along with creative unions and STUC officers, I met with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture, on 18 August 2020 raising many of the issues above. Creative Scotland opened a hardship fund for creative freelancers in September 2020. Along with a Screen Hardship fund for freelance workers, £17 million was distributed through this fund between September 2020 and March 2021.

### **56. Social Distancing**

An important protection for workers who were employed in essential work and did not have the option to work from home was the requirement for social distancing in the workplace. On 4 April 2020 I welcomed the Scottish Government's updated guidance

on social distancing which addressed some of the issues we raised with the Scottish Government and also instructed non-essential workplaces, including construction, to remain closed. This was in contrast to the UK Government guidance which stated:

*“with the exception of some non-essential shops and public venues, we are not asking any other businesses to close – indeed it is important for business to carry on.”* [RF/30 - INQ000107221]

57. However, concerns remained where employers were not adhering to the two metre distance. These concerns were evidenced by an STUC survey, conducted by Professor Phil Taylor, University of Strathclyde, which resulted in over 3000 responses. [RF/31 - INQ000107222]

58. On 5 May, I issued a statement outlining our concerns for call centre workers who were at work or being asked to return to the office highlighting the survey findings which reported:

- 37.8% of respondents stated that they were seated less than the required 2 metres, with one in six (16.4%) reporting that they were a mere 1.5 metres distant or less.
- Whilst half of workers reported that the 2m rule was being applied for desk arrangements, almost three-quarters (73%) believed that social distancing when moving around the building was either ‘hazardous’ or ‘very hazardous’.
- 45% consider management to have been either ‘ineffective’ or ‘very ineffective’ in ‘taking the necessary steps to ensure social distancing’.

59. The Scottish Government announced changes to the social distancing guidance on 2 July 2020 which allowed a reduction of the two metre distancing rules in certain sectors and introduced mandatory face covering in some sectors. We raised concerns on these changes in a statement on 2 July specifically around retail and hospitality workers who could be expected to enforce these changes when we already had knew that retail workers faced increasing levels of abuse when asking the public to adhere with guidance. [RF/32- INQ000107223]. We also voiced our concerns in a meeting with the Minister for Business, Fair Work and Skills on 2 July 2020. This meeting was minuted by the STUC [RF/50 -INQ000107201]. This minute was intended for internal use only and was not signed off or agreed by the Scottish Government. The Scottish Government listened to those concerns but the guidance was not ultimately amended to reflect them.

60. We asked the Scottish Government to recognise that social distancing in various workplaces was not practical and this strengthened the argument for support for workers to self-isolate when required. At a meeting with Jeanne Freeman, Cabinet Secretary for Health, and Sport, on 13 May 2020, we raised points in relation to self isolation- for firefighters, and how they work in very close proximity with each other and the public when attending emergency incidents and cannot always socially distance. It was noted at the meeting that the trade union representative had welcomed the opportunity to feed into a change in guidance to allow potential self-isolating for those firefighters who were in contact with colleagues who later tested positive for Covid.

#### 61. **Re-opening the economy**

As the UK Government was preparing the country to move out of lockdown, the Scottish Government was also considering options and timing of re-opening the economy. We shared our briefing paper on Leaving Lockdown with the UK and Scottish Government (Fiona Hyslop, cabinet secretary for the Economy and Fair Work) on 8 May 2020. We also issued a press release in relation to this [RF/51 - [INQ000215542]; We do not know the extent to which this document was shared internally by the Scottish Government.

The STUC outlined five essential areas that required to be in place before restarting the economy. At the time of lifting the first national lockdown, the STUC does not consider that there were sufficient measures in place to address all of the issues raised in our briefing note. Those five essential areas were:

:

- *Capacity for greater testing and a return to contract tracing.*

*Testing has a key role to play in ensuring that the economy can safely function going forward. We cannot begin the restart phase until effective process for testing and contract tracing are established. This must include:*

- *greater emphasis on routine testing for key workers;*
- *a return to community testing;*
- *a return to contact tracing;*
- *genuine access to testing.*

- *Capacity to supply PPE to non-essential workplaces.*

*There have been clear issues with supply and distribution of PPE for key workers. Yet more PPE will be needed as non-essential workplaces begin to return to operation. There must be:*

- *Sufficient supply of PPE to supply non-essential workplaces in addition to key workers.*
- *No disruption of supply chains supporting PPE for key workers.*
- *Assessment of the PPE needed undertaken on a sectoral basis prior to reopening workplaces.*

- *Sectoral Guidance agreed between unions and employers.*

*It is vital that unions and employers, supported by the Scottish Government work together to prepare guidance sector by sector which takes a clear health and safety approach. This guidance must be in place prior to any restart of the economy and should clearly set out Fair Work and safe working practices within each sector.*

- *Effective enforcement measures.*

*There must be:*

- *The creation of a national enforcement forum to provide oversight of health and safety and rapid response to issues across the economy. This forum should include the Scottish Government, local authorities, environmental health officers, the HSE, the police and trade unions.*
- *There should be greater support for the role of union health and safety reps in the workplace. Steps should also be taken to empower union health and safety reps to support inspection work across high risk sectors, like manufacturing, agriculture, and construction.*
- *The Scottish Government should set up a whistle blowing helpline to ensure that every worker in every sector can raise instances of bad practice and know that this will reach the appropriate enforcement agency and be acted upon.*
- *Action must be taken now to enhance the capacity and number of environmental health officers to support a higher level of inspections. This includes:*

- *bringing back retired officers as was done during the Commonwealth games in Glasgow.*
  - *making funding available to support a greater number of inspectors going forward, through funding for training courses and a higher level of resourcing for local authorities.*
- *Effective enforcement of physical distancing rules is absolutely essential.*
- *Local authorities through environmental health officers and the Health and Safety Executive are best placed to lead enforcement activity. However, the capacity for inspection has been fundamentally undermined by 10 years of austerity.*
- *A continuation of the job retention scheme and other support for those who cannot work.*

*Coming out of lockdown is likely to be phased. There will be some sectors which must stay closed, while others may open then be forced to close again. There will also be workers who are shielding and therefore unable to return to work.*

*It is essential to:*

- *maintain the incomes of all those who cannot work throughout this crisis.*
- *create more flexible Government support packages for workers which can underpin short hour working or transitions between work and furlough while maintaining income levels.*

62. Following the announcement by the First Minister on 28 May 2020, providing a route map to easing lockdown, I wrote to the First Minister welcoming the launch of Test and Protect. Further I raised concerns that some employers may not fully support employees to engage with Test and Protect, identifying those on insecure contracts at further risk, and urging the Government to stress to employers the need to fully support their workers. [RF/33 - INQ000107224] [RF/34 - INQ000107225]

### **63. Working from Home**

On the first anniversary of the national closure of workplaces we hosted an online conference to outline best practice for employers to support home working and review the health and safety, equality, and representation challenges of continued

homeworking. The event also featured the launch of research report “Covid-19 and Working From Home”, which showed:

- Over a third of respondents felt that their health had worsened as consequence of WFH with just over a quarter reporting the opposite
- Of those whose health had worsened, the most common reasons were mental health, stress, and muscular-physical fatigue. Respondents were evenly split on whether they could effectively wind down after a day of WFH with 37% reporting problems.
- Some evidence from the survey suggests WFH is more likely to induce workers to work when ill, compared to in the workplace, with 49% reporting they were more likely to do so.
- Though the large majority (90%) reported that their employer had paid for necessary IT hardware, one in ten were required to purchase it themselves. Only one in ten received any assistance from the employer with wi-fi costs. [RF/35 - INQ000107226]

64. We reported specific concerns to Scottish Government on a number of occasions that employers needed to support disabled workers with reasonable adjustments to work from home, especially those who were shielding and would be unable for a longer period to return to workplaces. . [RF/36 - INQ000107227]

65. The STUC had a direct input to Scottish Government process while officials were reviewing guidance on physical distancing, impact on disabled workers and those shielding in relation to the move from homeworking to returning to the workplace. [RF/37 - INQ000107228]

66. We conducted a survey on the impact of COVID-19 on equalities and workers' rights from September 2020 to November 2020. A number of issues were identified around working from home where risk assessments were not offered to 43% of respondents and 20% of disabled workers reported losing their reasonable adjustments in the move to home working.

67. Further equality impacts were reported in the survey findings [RF/38 - INQ000107229]

- Women participants openly shared that COVID-19 has impacted on their relationships and experienced an increase of coercive control and gender-based violence.
- Young workers (under 25 years of age) were more likely to be furloughed and made redundant because of COVID-19.
- 65% of LGBT+ workers were worried about how the next 6 months will impact their mental health.

Further, we know the disproportional impact on different groups of workers with protected characteristics within concerns raised including:

- the lack of testing and PPE for social care workers where the workforce is predominantly women with a higher proportion of black and minority ethnic workers
- loss of employment for precarious workers including those in hospitality where the workforce is likely to be younger
- the requirement to retain mandatory face coverings to protect workers with underlying health conditions and disabilities
- the lack of childcare impacting on retail workers where women are working in greater numbers and resulting in their inability to attend work with no compensation
- the low uptake of vaccination amongst black and minority ethnic workers

These issues were raised with Scottish Government at Covid Group meetings. The Scottish Government will have a note of all meetings along with any actions noted and updates on the actions. The Scottish Government did engage on these issues to consider our concerns. They did not always agree with us (or action our concerns) in their final decisions or implement changes quickly enough.

#### **68. Part C: Public health communications and public confidence**

69. A recurring challenge throughout the pandemic was the need for clear sector-specific guidance as to the public health measures that were expected of employers, and what employees were entitled to expect. We had frequent liaison with the Scottish Government during this time about their lack of focus on communication with workers in their key online FAQs and information pages. There was little to no guidance available for individuals about what they should expect from their employer or their



employer's responsibilities towards them. The Coronavirus (COVID-19) Fair Work Statement discussed the role and responsibilities of employers towards workers in a strategic policy document that was utilised by trade unions and representatives but not in our understanding by individual workers.

70. Scotland's First Minister, Nicola Sturgeon, hosted live daily briefings that were widely reported and engaged with across Scotland. Public confidence in the First Minister appeared high and independent reports showed higher levels of trust in the First Minister compared with other UK leaders during the pandemic.

71. Scottish Government's National Clinic Director, Jason Leitch, was key in communicating public health information and answering questions from the media and the general public. We met with Mr Leitch on several occasions including 5 May 2020 when he provided the Covid Group with information on the Scottish Government's testing strategy and test, trace, and isolate processes. [RF/39 - INQ000107230]

## **72. Part D: Public health and coronavirus legislation and regulations**

73. The STUC had a key role in reviewing draft guidance produced by the Scottish Government across sectors. We repeatedly asked for clear guidance to ensure workers understood their role and that of their employer in supporting public health legislation. Clear guidance allowed for workers and trade union representatives to challenge employers who failed to uphold their duty to protect their workers.

74. We received draft guidance from Scottish Government officials throughout the pandemic and were asked to review and comment. The volume of guidance being produced across government and the requirement for extremely quick responses, often less than twenty-four hours for complex documents, provided us with challenges around staff time to collate responses and engagement with trade union representatives who were similarly under pressure supporting their members. Responding in very short timescales limited our ability to both respond fully and consult as widely as we would have like with all impacted groups. In the event of another event of this nature it will be vital for key organisations, such as the STUC, to be able to quickly increase its human resource capacity to ensure the best possible feedback. This resource could in future be in the form of secondment to the STUC, or through funding to secure additional resource itself, or a combination of both.

75. Issues also occurred when there was different or contradictory advice issued by the UK and Scottish Governments. We had welcomed the UK Government advice for social care workers published late March 2020 and raised concerns with Fiona on 7 April 2020 that the recent letter from the Chief Nursing Officer in Scotland to COSLA has undermined that advice. We called for the letter - which contradicted advice on PPE, social distancing, and the capacity for workers to carry out their own risk assessments - to be withdrawn. [RF/40 - INQ000107232]. We do not know if the letter was withdrawn, but the UK advice was adopted and this was clarified.
76. We commented on the failure of the Scottish Government to support amendments to the Coronavirus (Scotland) (no2) Act when the legislation was updated on 20 May 2020. Amendments tabled by opposition MSPs would have ensured trade unions greater access to workplaces, payment of the living wage, and established national collective bargaining in social care, all measures that would support Fair Work and contribute to the sustainability of these sectors. [RF/41 - INQ000107233]
77. Further, the ability of the agencies responsible for enforcement of health and safety was limited. Members of the Covid Group met with the Health and Safety executive Scotland on 24<sup>th</sup> Feb 2021 and raised a number of concerns related to the enforcement and specifically asked for information on:
- Numbers of employers not following Covid safe systems of work have been reported in Scotland so far, and how many of the reported cases have resulted in workplace visits and prosecutions by the HSE?
  - How has the HSE dealt with shops in particular large supermarkets who do not enforce the guidelines?
  - What is the HSE doing to mitigate underreporting in sectors such as care?
- Note, we do not have a minute of the meeting.
78. While employment law and health and safety legislation is reserved to Westminster, the Scottish Government utilised Fair Work policies where possible to influence employers to protect workers' rights during the pandemic. The joint statement

Coronavirus (COVID-19) Fair Work outlined the importance of Fair Work in balancing the rights and responsibilities of workers and employers. This guidance was significant in a Fire Brigades Union (FBU) employment tribunal with the Scottish Fire and Rescue Service (SFRS).

79. The FBU had raised a collective grievance with the SFRS on disability discrimination and indirect sex discrimination which concluded in an Employment Tribunal held in Glasgow from 12 to 16 July 2021. Thompsons Solicitors believed that this was the first case of its kind where an employer had discriminated as a result of their employees following Government and health guidance related to Covid-19.

80. The case involved two sets of claims: a group claiming a breach of Section 15 of the Equality Act 2010 and a separate group of claimants alleging breach of Section 19 of the Equality Act 2010. The claim in respect of the claimants who raised a claim under Section 15 of the Equality Act 2010 was upheld and the case of indirect sex discrimination was ill founded and dismissed.

81. The Employment Tribunal's Judgement from paragraphs 91 to 95 contained information and references to the Fair Work Statement including the following:

*'On 25 March 2020 a joint statement was issued by the Scottish Government, the Scottish Trades Union Congress, and others. This was not a legally binding statement but a statement reflecting what the Scottish Government and the signatories' expectations during the pandemic with regard to workers. That included some high-level principles, such as facilitating effective employee engagement and supporting all workers to follow public health guidance.'*

[RF/42 - INQ000107234]

82. The Scottish Government approached the STUC in April 2021 requesting we review their proposed changes to the Coronavirus (COVID-19) Fair Work statement which included amending the protection for workers to self-isolate and attend vaccination appointments with no financial detriment. The proposed amendment stated that:

*"Where a worker is unable to return to work after receiving the vaccine due to any side effects, such an absence should be treated sympathetically regarding pay and formal attendance management."*

Further amendments removed any protection for workers with Long Covid as it suggested:

*“If an absence becomes long-term and is categorised on a fit note as post-Covid-19 syndrome, the absence from that point in time should be managed in the same way as other long-term absences.*

83. Following consultation with the Covid Group we prepared a robust response insisting that workers should be protected when following public health guidance:

*“Further, we have significant concerns regarding the proposed changes around payment which remove protection for workers suffering from post-Covid-19 (long covid). We request the existing wording around the “no detriment” principle should remain and apply to all Covid related absences; those arising from isolation, short-term illness and long-covid. Allowing employers to treat absences related to long covid in the same way as other long term illnesses leaves workers at risk of rigorous attendance management processes, financial detriment, and potential capability dismissals.”*[RF/43 - INQ000107235]

84. We raised concerns where employers were also discriminating and financially penalising workers who had not been vaccinated. On 7<sup>th</sup> October 2021 we reported to the Scottish Government several incidences where sub-contracting employers were forcing offshore workers to quarantine for five days before the start of a shift offshore. The workers were not paid during the quarantine period. Further any worker who was unable to quarantine, for whatever reason, would therefore be excluded from mobilising for work and future employment. [RF/44 - INQ000107236]

85. A further request to “retire” the Coronavirus (COVID-19) Fair Work statement was received in May 2022 stating Coronavirus Fair Work Statement as

*“the statement no longer accurately reflects the current position on health and safety obligations and supporting self-isolation and hybrid working.”.*

I responded in the strongest terms highlighting [RF/45 - INQ000107237]

*“We therefore are not in agreement that the statement should be withdrawn as we believe that it still contains a range of important and relevant provisions*

*that are actively offering protection to workers in Scotland not covered by other areas of Scottish Government Fair Work guidance.”*

86. We had significant concerns around collection of, and discrepancies in, data on workplace transmission of Covid-19. That was raised with Richard Lochhead, Minister for Just Transition, Employment and Fair Work, on 25 November 2021. We reported that the number of Covid-19 deaths in the transport sector was listed by ONS as 608 but the Health and Safety Executive reported only 10. It is likely that employers were attributing cases to community rather than workplace transmission, so these were not being reported to the HSE. We shared these concerns with the Minister along with the TUC report “RIDDOR, Covid and under-reporting” published 23 May 2021. [RF/46 - INQ000107239] which explains the issues, which they agreed to review. I am not aware that there ever being a resolution to those discrepancies.

87. Further concerns were raised around the granularity of data recorded for black and minority ethnic workers. We first raised this as an issue with Scottish Government following the release of a letter to the First Minister from the STUC Black Workers Committee on 22<sup>nd</sup> May 2020, stating: [RF/47 - INQ000107240]

- *“Black and Minority Ethnic Workers are employed at a higher rate within the key workers category identified by Government and yet are more likely to be paid less than their white counterparts. They are over-represented in roles and jobs which put them at even greater risk to being exposed to illness and disease.*
- *“... we are calling upon the Scottish Government to take urgent action to ensure that they immediately record, analyse, and publish the disaggregated data on the number of Black and Ethnic Minority (BME) deaths in Scotland that have occurred as a consequence of COVID -19. Record, analyse and publish the disaggregated data on how COVID 19 has affected Black and Minority Ethnic communities”.*

Similar concerns were raised at later stages of the pandemic in relation to disaggregated data on vaccine take up for black and minority ethnic workers.

The Scottish Government created an Expert Reference Group on COVID-19 and ethnicity. I think this was created around September 2020. I understand that, due to inadequate sample sizes being available at that time, it was ultimately concluded that, it would have to adopt and use UK wide data to inform policy in Scotland. I

understand that disaggregated data was thereafter available – please see the link below as an example. In the absence of Scotland specific data, this is the next best thing. A key lesson for any future emergency will be to ensure resources and systems are in place to provide adequate and disaggregated data can be collected from the outset.

[https://www.opendata.nhs.scot/dataset/covid-19-in-scotland/resource/07b3dff7-3254-4d26-946f-6cd9ff276a1d?inner\\_span=True](https://www.opendata.nhs.scot/dataset/covid-19-in-scotland/resource/07b3dff7-3254-4d26-946f-6cd9ff276a1d?inner_span=True) [RF52 - INQ000215609]

A report prepared by Unison sets out further information on these issues:

<https://www.unison-scotland.org/wp-content/uploads/UNISON-Scotland-Black-Workers-and-Covid-19-x.pdf> [RF/59 - INQ000215615]

#### **88. Part E: Impact on STUC members**

89. On reflecting back about whether it is the view of the STUC that our members / workers were adequately considered when decisions about the response to Covid-19 were made by the Scottish Government, I would give a positive but mixed review.

90. It is certainly true that the STUC was given good access and that efforts were made by Scottish Government to build effective communications channels so that workers concerns could be raised and to discuss any issues or problems on the ground at the different stages of the government's covid response as they emerged. These interventions and highlighting of issues did result in a number of improvements to Scottish Government's policy and the type of guidance being implemented. For example:

- The issues with access that were highlighted and suggestions made around quality and availability of PPE for workers and the guidance on suitable PPE to be made available across various sectors.
- The actions called for and delivered to provide sickness absence payments to workers across social care to minimise the issue of workers possibly carrying the virus into their workplace in a high risk environment.
- The additional payments secured for particular groups of workers such as industry freelancers and taxi drivers not covered by the UK government's furlough scheme.

- The input we provided on additional safety guidance produced for sectors on specific measures around social distancing screening, ventilation and cleaning, which were effectively used by reps on the ground to influence employers.
- The Fair Work coronavirus statement, which set out a number of key standards expected of Fair Work employers in relation to their covid response and was used effectively by trade union representatives on the ground to improve conditions for staff, not least by ensuring that those suffering from long covid suffered no detriment.
- The whistleblowing line that allowed us to report specific cases where guidance was not being upheld and resulted in a number of interventions from Scottish Government to highlight guidance to employers not following it.
- Adjustments to the public messaging from government on key safety issues in direct response to issues we had raised. On occasion First Minister's briefings included key messaging urging employers to encourage employees to engage with the testing, and track and trace programmes, or to follow the covid workplace safety guidance.

91. So overall I believe that the engagement Scottish Government maintained with trade unions about its response to the pandemic at all stages did make a positive difference. Further, as a result of that engagement, the response of government in Scotland was more agile and placed more emphasis on public safety before profits than the UK government did, and that lives were undoubtedly saved as a result.

92. However there were also many examples of where we did not feel adequately resourced to keep up with the speed of engagement. When we were given little to no time to respond adequately to complex documents or to ensure representatives with the right level of expertise about a key sector were present for meaningful dialogue, or that the decision had been made elsewhere, prior to consultation, or regardless of our view on the issue.

93. For example there were many instances of decisions being made to close schools in our opinion too late, or reopening too early, and we did not get any real input into the model used for roll out of vaccine, where teaching unions were arguing that frontline educators should be given the same early protection as frontline health workers. There were also many occasions where the STUC raised serious concerns and had

heated and robust exchanges with Scottish Government ministers about decisions made that in our view lacked appropriate consultation or were taken despite opposition from our members to them. So in summary the engagement was good, it was better than at UK level, but still had lots of room for improvement.

94. There are definitely lessons that can be learned from the above about the need for Scottish government when engaging so intensely with stakeholders, to ensure that work is put into ensuring that the organisations being engaged with, if required, are given assistance with their capacity and infrastructure to engage meaningfully and at pace.
95. There was also a notable lack of engagement with trade unions on a regular basis about how to deal with the pandemic by government at a UK level and in my opinion this very different approach contributed to a very regrettable disparity between policy at UK and at devolved government level (certain of which are set out previously in paragraph 11).
96. There are grave lessons to be learned about the impact that years of budget cuts and austerity policies had on the resilience of our key public services like social care and health services to deal with a pandemic. As evidenced by the staffing issues, lack of adequate PPE, etc that impacted greatly on effective service delivery at a peak and extremely critical time.
97. There was also a lack of adequate resourcing for implementation and monitoring of safety guidance and other covid related emergency measures, which meant these were not adequately enforced across employers, due to years of underfunding of areas including the Health and Safety Executive and Environmental Health Officers employed by local authorities. It became evident that there was a huge skills gap in these areas when it was most needed.



98. There is also in our view a need to look at whether the level of powers devolved to Scotland were appropriate. For example due to its public safety responsibilities it was necessary for the Scottish Government and trade unions to engage in detail on setting workplace safety measures for those attending workplaces during the pandemic. However the effectiveness of these measures was lessened due to the lack of Scottish Government powers over employment law, health and safety law and equalities laws Scotland. It is the STUC's view that Scottish Government would have been in a position to act more decisively and effectively during the pandemic and to meet their public health obligations more effectively, had they been in full control of these areas as part of their devolved powers.

### 99. 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.

**Personal Data**

Signed:

**Dated:** 06 July 2023