

STUC – Jamie Hepburn Meeting
1.15 pm – 2.00 pm
02 July 2020
Note of Meeting

On call

Rozanne Foyer, STUC General Secretary (RF)
Helen Martin, STUC Assistant General Secretary (HM)

NR

SG Side

Jamie Hepburn, Minister for Business, Fair Work and Skills (JH) and a range of supporting officials.

Opening Remarks

JH welcomed everyone to the meeting and advised that going forward meetings will switch to one a week with himself and looked forward to continued engagement. It was noted that if there are any issues which arise in between meetings then would be happy for an additional meeting if this is required. JH advised that Christina McKelvie (CM) would be taking over the lead person on the sectoral guidance and may join meetings on occasion.

JH noted the biannual meeting with the First Minister had taken place as scheduled.

JH advised that following last week's meeting there had been an approach from officials in Government about anyone needing to talk through phasing and decision making process and advised that there is going to be a specific agenda item on this at the meeting scheduled for Friday 10 July and asked if there was anything in particular the STUC or unions wished to focus on, to advise.

JH referred to discussions in the past on data on Covid and the impact on the BME community and invited CM to provide an update.

CM updated on the response to and from the FM from the STUC Black Workers' Committee and that CM had offered to meet with the Committee, and the wider STUC if required, around work on ethnicity and Covid, which it was noted cuts across all of Government. CM referred to the Group which had been set up and has since met twice in noting this will provide academic advice on what to focus on. It was further noted a large part of the work is on data, where there is a lack of data, and how to address this, is currently being worked on. Specific within this is the guidance on social care workers and CM looked forward to working alongside the STUC on this. CM advised that she would provide a further update once the Expert Reference Group have met.

RF responded advising the STUC Black Workers' Committee welcomed the engagement and that the Committee would take up the offer of a meeting. RF is aware of the ongoing correspondence on BME statistical information available and the STUC will continue to look forward to work with the Scottish Government on guidance.

RF advised that the STUC had been provided with advance warning of the announcement by the FM today in relation to comments that the FM was making in respect of physical distancing and that there is 2 weeks until Phase 3 kicks in. RF noted there could be exemptions to the 2 metre rule (transport, hospitality etc) and that this would require further engagement on the safety guidance and input from trade unions. RF further advised that they were given assurances by officials that none of this would take place until appropriate risk assessments have taken place but that she welcomed a more in-depth discussion on this as they have major concerns. RF understood the need to start opening up the economy but if that is the decision the Scottish Government has come to the STUC and Unions would wish to have a high level of engagement on the mitigation of this. RF further wished it noted that this will have deep repercussions on the safety guidance workplace by workplace, and the workforce will have to feel safe and comfortable in returning to work.

JH responded advising that this is not entirely about opening up economy but more a sense of trying to get back to something approaching normality. Distancing is there for a reason and as we move forward with public health information there is a need to get back to some sort of normality, but this will only be done when Public Health Scotland advise it is safe to do so. JH agreed that there are some exemptions, but Phase 3 is contingent on the public health position.

The Scottish Government are not trying to replicate what has been done in England and have to make sure there is a system in place to agree mitigations and to ensure the workforce is involved in the development and sectoral guidance provides a good basis to move from. Irrespective of the distance, the process of collaboration and implementation of guidance remains critical. JH agreed that it would be helpful to have a more in-depth discussion on this moving forward and the guidance has to reflect the position we are in. JH noted there had been some concern previously on the consideration of providing information prior to the FM's announcements and it was hoped following RF's information above that this had now changed.

NR also agreed that a further discussion would be required and although he had not time to reflect on what had been announced earlier, he raised serious concerns. **NR** advised on the need for the guidance to be reviewed, and that this will lead to further expenditure on changes which employers will have to make to meet newer distancing requirements and anticipated that bus companies may come back to the Government with a request for financial assistance. **NR** further advised a big issue is safety and has seen conflicting reports on difference of distance and warned that some employers may use face coverings as a substitute for removal of social distancing and doesn't see why it is necessary that if the priority now in quite a precarious period is to retain public health rules then it sends out a dangerous message. His initial reaction is of real concern and felt it unnecessary and that it sends out mixed messages.

JH thanked **NR** and understood his concerns. He advised that we are still in a phase where the virus is very real but reassured that the process being followed is formed by clinical position. JH reported on the constant challenge on communicating the message but given the example of schools reopening the bottom line is that this will only happen if it is safe to do so and that nothing will be done if the evidence suggests it is not the appropriate juncture to do so.

NR spoke on the announcement of face coverings in retail and felt that this will diminish the social distancing rule of 2 metres and the policing of this in noting that some people cannot wear face masks due to respiratory illnesses. **NR** advised that abuse of shop workers has risen significantly which was unacceptable.

JH advised that this is a shared concern and there is a framework for enforcement in conjunction with HSE, Environmental Health and Police Scotland and that this underlies enforcement but that he was keen to pick up this concern with retail working group and relevant unions early next week for a further discussion.

Action: Concerns around the enforcement of mandatory wearing of face coverings in shops to be picked up with the retail working group early next week.

1) Update from Actions

JH provided an update on action points as under:

SFRS and FBU – Facility Time

It was noted the issue raised previously around facility time in the FBU and had received assurances from the SFRS that those officials called on in April have not been used and have been available throughout the Covid pandemic. It was noted that this was primarily a matter between SFRS and the FBU and was keen to hear from FBU if what has been advised is not correct.

NR responded advising that it was inaccurate and the FBU had the evidence to back this up. **NR** advised that officials have been back at work and has raised this with the Justice Committee and that the FBU has also written to the Chair of the Board.

Derek Smith (DS), Scottish Government official, would recheck this with the SFRS.

NR advised that she would provide any written confirmation / evidence of this if required.

JH reiterated that this is ultimately an issue for the employer (SFRS) and union to deal with but if what he is being advised of is inaccurate then he will want to pursue this.

On other matter of SFRS, JH advised that Fiona Hyslop wrote to the FM articulating the position that the Fair Work principles should centre on return to work and that the safer workplace guidance reflects this. JH advised that he had been informed the SFRS have continued some of their business continuity measures and that although it was difficult to interfere directly, he wished to provide an update on this.

NR appreciated that they are operational matters but that it was important also for the FBU to make sure the Scottish Government are aware of their concerns.

Shielding

In terms of Fair Work language has been added around shielding to the current draft statement highlighting that employers should have particular regard of employees at risk and looked at this being consistent across all guidance. JH advised that they are reviewing guidance to those shielding so that they have a clear understanding of the message. On the issue raised of members having difficulty on accessing a shielding letter, it was important to note that GP's and Clinicians both have a role to play and can request people be added to the list to receive said letters. If it is featuring regularly on dialogues with members JH was keen to hear this.

NR responded advising that he would provide information on any instances as mentioned above. **NR** advised that he raised the issue previously in a wider context of employers and guidance, whereby if shielding then they should not be asked by their employer to enter the workplace and should not suffer any financial detriment. He referred to other people who do not have a shielding letter and do not necessarily fall into that category (i.e. those with vulnerable children, family members with caring responsibilities of people in vulnerable position) and would like to see the same guidance applied to these people and that they should not suffer any financial detriment either.

JH responded on the substantive point being made it was noted the Scottish Government are trying to deal with this through the Fair Work statement but would be happy to have further feedback on this and that it latterly comes down to employment law which requires a have conversation with UK Government on how these issues react with employer's responsibilities.

Action: Facility time (SFRS) – **NR to provide tangible examples in writing to allow officials to follow up with SFRS re the these issues/feedback provided to date .**

Action: Officials to investigate whether the same guidance that covers people who are shielding should also apply to those who are clinically vulnerable or have household members who are (this is with respect to financial stability from their employer).

2) Safety Guidance

JH reported as advised at the outset that CM is taking on the role for sectoral guidance going forward and that over the past week the Scottish Government has continued to publish guidance to ensure employers are aware of steps to be taken for workplaces to open safely. It was noted guidance for research and labs, safer public spaces, creative studios, and the agriculture sector had been published and work is ongoing to take forward guidance on contact centre and should hopefully be in a position for this to be published soon. It was further noted guidance on homeworking is currently being looked at as well as guidance for micro and small businesses. JH thanked the STUC and unions for their involvement in collaborating the guidance and was grateful for the input.

RF responded and returned to the practicalities of the announcement today and of the potential impact phase 3 will have on transport, hospitality and retail and that there requires to be work to be taken forward in these areas in the coming week to work out what moving into the next phase will mean. RF referred to the outbreaks which have happened recently and that workplaces do play a key role. Workers run the risk of the virus spreading quickly if factors are not put in place. RF advised that there are areas like hospitality and retail where workers are on precarious contracts and can be very vulnerable and that there is a requirement to ensure a proper enforcement strategy to try and mitigate this.

JH agreed and advised that he is committed to this. A discussion would take place between CM and JH in the first instance then pick up with RF.

NR reported that he had seen following the start up in the rood retail in the high street and places which are not union organised that they are not picking up any issues, and was hearing that where there is no trade union involvement employers are starting to rely on risk assessments being carried out without involvement of unions, instead utilising their own people or from companies south of the border. **NR** wished for assurance that these should be carried out locally and have the workforce involved.

JH agreed that it is important and an essential part of guidance that has to be followed. For unionised workplaces they have a contact via their reps. It was noted that concerns could be raised with Scottish Hazards which would then be reported on and encouraged **NR** to use this means.

Scottish Government officials advised that as part of the guidance, the Scottish Government has been working closely with key enforcement

agencies etc. to make sure this is a joined up approach and that she would take the points raised back for consideration with colleagues.

NR referred to the issue of roving safety reps, and that he had raised before that the excerpt from the joint statement is included in all safety guidance, and further referred to the barrier some reps face on being denied the facility time. **NR** advised of an issue which had arisen through Unite this week is that some employers were under the impression that roving safety reps can be used to conduct the risk assessment rather than the employer which resolves the employer of all responsibility. Unite have advised their reps to be involved in the development but that it is the employer that is responsible. It was also noted that the rep requires the employer's permission to access the workforce, if the workforce report to a union and the safety rep turns up, is there a mechanism in place to highlight where an employer denies access to the rep(s) whereby the Scottish Government could remind the employer of what the guidance states. **NR** advised that on a positive note there are hundreds of trained safety reps who are constantly undergoing training but that there are barriers standing in the way of scale of roving reps applying themselves to the workplace.

JH noted **NR** concerns and agreed to pick this issue up and give consideration to what will be possible in terms of the guidance and to look to see if wording could be emphasised or accentuated.

NR Scottish Government official, advised that she would look at seeing if the language can be strengthened.

Action: H&S roving reps – Officials to investigate: 1) whether there is a mechanism available to highlight cases of employer refusal in allowing access to H&S reps on to the premises 2) whether they can highlight further that risk assessments are the responsibility of the employers (reps can help to develop RA but responsibility still remains the employer).

3) Aviation

NR advised that he has been raising the situation around airports and supply chain and of the situation in the aviation industry and attitude of some employers. It was noted **I&S** and **I&S** had both announced redundancies in Scotland and other airports throughout the

UK and that this has taken a deeper and sinister twist with Menzies taking the I&S stance on firing and rehiring on different terms and conditions.

NR advised that I&S were also about to announce redundancies on the back of I&S and I&S and the very viability of airports in Scotland being able to deal with incoming and outgoing flights because of a lack of presence on the ground is getting to a very dangerous stage. NR understood that aviation is not devolved but that airports are critical to the economy in noting that I&S is a Scottish company and that I&S has announced job losses of around 50% in the UK which equates to around 80% in Scotland. The impact to the economy could be massive and this also has an impact on tourism and hospitality. NR reiterated that there does require to be some intervention at a Scottish level and referred to a report by the Economic Advisory Group and emphasised that the Scottish Government should be saying to companies that if financial assistance is provided that this is conditional on no redundancies and JC thinks that there is a case to say to airports to bring back services in-house. A lot of this relates to defragmentation with lots of smaller companies and if one or two of these smaller companies go down it risks bringing the whole system down.

NR agreed with comments provided by NR and raised the issue that airports are indicating that they cannot make payments to external providers (i.e. fire safety) which will in turn cause a knock on effect – you cannot just turn this service back on. There are issues around how we ensure that we keep the flow of people through airports available.

JH responded advising the Scottish Government is alert to this issue and is one that is deeply impacted by Covid. The Scottish Government are in contact with airports to discuss these matters in terms of how to get connectivity re-established as much as it is in the Scottish Government's power to do so. They are also working with industry to make sure it can bounce back. The Scottish Government will never narrow down option in financial regard and Scottish Enterprise would be happy to engage with companies named above. The fundamental point made by NR in terms of conditionality – these are things which are already being considered in the Fair Work First Agenda to support businesses through the procurement process. This will implement conditionality around Fair Work First Agenda and in terms of firing and hiring this is also a shared concern and colleagues in Westminster are pushing on this.

RF also raised conditionality with at the biannual meeting with the FM and to look to build Fair Work into the economy. When public funding is given

then Fair Work must be a priority and RF advised that the STUC would continue to build on this with the Scottish Government in going forward.

NR reverted back to the comment by JH advising that the Scottish Government are having conversations with companies in the airports and advised that there discussions should also take place with the lead trade union officers in the transport sector as he has been led to believe that the FM has already had conversations with some of these companies.

JH requested that **NR** (Transport Scotland official) take this forward as they must be talking simultaneously with the unions on these matters.

Action: Aviation: Scottish Government to be mindful of highlighting inclusion of union rep when participating in talks with employers re airports and associated businesses.

4) **Irrelevant & Sensitive**

NR raised the previous issue at **I&S** and concerns from members and appreciated the Scottish Government's involvement in the ongoing situation at **I&S** and that Scottish Enterprise are working through **I&S** finances and books which is an appropriate way to go. **NR** advised that the clock is now ticking on the redundancy situation and that **I&S** seem to be, as usual, just paying lip service to any engagement in that they cannot take matters further whilst still liaising with Scottish Enterprise. As previously happened, it noted that 6 months after being advised that jobs are no longer required some have found that volunteers were brought in to replace them. RH placed on record a request for the Scottish Government to support the indication to the Trust that the consultation period should be extended by a month so that they do not end up with a cliff edge scenario where Scottish Enterprise finish their deliberations and the Trust can run down time and eventually get what they want.

JH agreed to raise this with FH immediately to ensure this is taken forward. Scottish Enterprise are engaged at a pace with NTS trying to get a turnaround plan for the Trust and there has been dialogue around this. the Trust needs to provide information and affirmed that there will be Ministerial involvement.

Action: Irrelevant & Sensitive – Ms Hyslop to be made aware of this issue. SG to request that the redundancy

consultation period be extended by another month so that there is enough time for the Ministers and the Union (Prospect) to be able to respond to the I&S and Scottish Enterprise engagement.

5) Testing

There were no issues on Testing to discuss.

6) PPE

There were no issues on PPE to discuss.

Closing Remarks

RF requested the standing items change going forward to response and recovery as it was felt the agenda discussions will move more onto a recovery phase and what can be done to support recovery but also to respond on the incoming phase.

JH agreed with this as meetings are a forum to raise concerns and in terms of issues addressed today on the back of the announcements would ensure continued engagement.

JH and RF thanked all for attending and note the next meeting will take place on Friday 10 July.