

STUC - Fiona Hyslop Meeting
12.30 pm – 1.30 pm
31 March 2020
Note of Meeting

On call

Grahame Smith, STUC General Secretary (GS)

Rozanne Foyer, STUC General Secretary Designate (RF)

NR

Helen Martin, STUC Assistant General Secretary (HM)

NR

EIS

NR

NR

USDAW

NR

NR

Unite

NR

NR

GMB

NR

NR

Prospect

NR

NR

PCS

NR

NR

FBU

NR

SG Side

Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture (FH)

A range of supporting officials

1) Updates on Actions

FH – provided a general update as under:

Absolutely critical is infections and admissions to hospitals and deaths. Unsure whether enough clarity will be known by the Easter weekend but hope to have this in 2 weeks' time. It was noted there is a need to consider what recovery might look like i.e. we can have either economic recovery 'v' shaped or more reflective one where the curve might be 'u' shaped. The Scottish Government will learn from China when they do a lockdown but it is likely to be 'w' shaped with a second phase in the winter, which is why the Deputy Chief Medical Officer advised it might take longer. They are looking at hibernation and considering what this will look like – what would a phased 'step-up' look like?

Discussions have taken place with banks and it was noted that although bank loans are currently very important to help people tide through, they are also problematic in noting the Government are underlying 80%. There is a need for the banks to loan to workplaces to ensure members get paid and understand, might be simplicity proposals over next few days and

suggested wages only for a limited period to help wages. Those companies with a turnover over 45 million don't have access to loan scheme or bank of England scheme so it will have impact. With regards to the Fair Work Statement, FH has written to appropriate people and included reference to the Fair Work Statement in all conversations. FH has also had a conversation with the Justice Secretary. FH reported that Kate Forbes has been looking at the self employment gaps and where other people are falling through gaps.

Construction Guidance – 21 weeks, something around step up / step down experience of Covid-19 in terms of hospital experience, will require good and proper guidelines. Ensure industries do this within their own area. Heard yesterday the UK are proposing a Job Exchange Scheme, TUC are aware of this scheme. The Scottish Government have been asked to be part of this, but FH has not had time to look through the details.

NR thanked FH for the update which was very helpful. **NR** agreed that the shape of recovery is on their minds, but question is when to raise this as unions are dealing with immediate issues at the moment. **NR** advised that the STUC is aware of issues around bank loans and concerns around Directors Liabilities being questionable. In respect of the wage only scheme the STUC is keen to receive further information on this. Regarding the Job Exchange Scheme **NR** been making enquiries with the TUC in noting the TUC were brought into the discussion by the UK Government late on. The understanding is that the intention is to launch later on in the week for England with options for the Scottish Government to make their own scheme of which the STUC would wish to be involved. It was noted there are some practical issues around the scheme i.e. how it matches employment law, and workers not feeling they are being forced into it. There is a need to explore what is being proposed in that respect.

NR also flagged up under the actions, the number of actions still open. **NR** had written to Health Secretary picking up a couple of issues surround PPE and guidance across different sectors and the PPE requirements for home carers and would welcome a quick response. It was noted a number of sector issues from the last meeting had been taken forward. Some Guidance had been shared and discussions taken forward with Unite to pursue with the construction industry. It was repeated that some issues are difficult to define as essential – and there is a need for this to be clarified in more detail.

2) Definition of Essential and Non-Essential Worker / Workplaces

NR spoke of the Health and Safety Guidance and advised that workers are the top list of priorities with a range of concerns and that unions are dealing with a number of concerns around health and safety. **NR** advised that it was highly questionable if work being undertaken is essential. **NR** intimated that when the First Minister spoke about key strategic sites, employers were to take the decision as to whether they were considered essential. Agree that workers shouldn't anguish over this but should be involved in this decision. If Workers can work from home, employers should allow them to do so. Employers should be asking themselves if their work is essential, for example food suppliers – consider if they can do work in line with social distancing, the problem is that employers are not taking decisions based on natural interest but in the interest of their shareholders. Some of these businesses are considering their competitive advantages over their competitors – there is a clear requirement for the definition of what is essential to be much clearer. **Need to ensure that guidance defines what is essential activity, what work is defined as essential and what is non-essential.** **NR** reiterated the concerns raised by members being forced to work in places that are not safe, or have real danger of negative impacts, as guidance is not clear.

NR reported that there are still a number of food companies flouting the guidance in noting that Tunnock had closed down production that that other biscuit competitors i.e. McVities, are still in production. **NR** reiterated the position that **NR** raised that this is being used for competitive advantage and have to say if people are being compelled to work it is simply not credible for the Government to say social distance when go home at night. In terms of the idea that the Whisky and White spirit industry are producing sanitiser is untrue, some are in turn only providing free alcohol to other organisations to produce, again flouting the guidance.

NR echoed **NR** remarks in respect of the Whisky industry continuing to produce alcohol but not adhering to the 2metre rule. This is unacceptable. Chivas – not essential but the union Health and Safety Reps are pushing the company. It was noted that this was also have an effect on the supply chain i.e. glass companies still having to produce bottles. **NR** referred to the discussion on Friday around Aerospace and that they are still in operation, it was noted that Spirit Aerosystems had closed but this was only for 1 week (on full pay), but 1 week was not enough. In respect of Construction **NR** reported that this particular industry was a disaster at the moment and, as seen over the weekend, Morgan Sindall had been warned not to resume work at the Sighthill development by the

Scottish Government. It was noted the clients for the development included Glasgow City Council and Glasgow Housing Association who both, as clients, have responsibility to ensure the health and safety of the workers. The energy sector – although this is recognised as essential, Scottish Power & SSE have deployed some workers to build new substations – this is not affecting the outage of energy, and it has been reported that some workers are having to use finger identification. Balfour Beattie have also been contracted by Transport Scotland to carry out roadworks. The removal of debris, cutting trees back etc. is not essential work! Concern was raised around the problems with schemes and where workers fit within the schemes. Those workers switching between PAYE and self-employment status will not qualify as they are not consistently self-employed over the year – do not qualify either for the Retention scheme. **NR** reiterated that the Scottish Government should be pressing the UK Government to clarify. If they will not do that then there is a case about Scottish Government stepping in with their own scheme to get workers off sites. **NR** further reiterated that the Scottish Government should be demanding the sites close and employers pay their workers. Workers could enact Section 44 of the Employment act given the clear and imminent danger they are being put in with employers disregarding the guidance; workers could also enact Section 100 of the Employment Act if they are unfairly dismissed but in noting it could be deemed that workers have made themselves unemployed

NR reported that he was happy to hear that Spirit had closed down at Prestwick. **NR** has tried to engage with the employer at Prestwick? As members are not happy at taking a 50% wage cut but asked to come to work to carry out work on planes which are not being used. Hyperbolic response from companies' director, attempts at police to shut down because Ryanair are claiming to be involved in important medical flights and repatriation of people from abroad, but Ryanair are a short haul company and wouldn't be any use in repatriating from certain places further afield. Can't protect jobs by furloughing and organisations would be able to apply for 80%. These jobs require hard physical labour with people in close proximity to each other and being asked to take a pay cut in order to work is outrageous. **Na me** thanked the Scottish Government for its assistance, but rationality doesn't apply to this individual and the members are concerned about exposure. **NR** fully supported **NR** call to be much more directional in the guidelines.

NR reported on the concerns USDAW also has around Government guidelines and manufacturing. Confectionery companies including Lightbody's in Hamilton are using the legislation to continue production, even though they are not an essential service, a number of workers are

also having to use public transport. Nairn's in Edinburgh is also a concern as to flouting the guidelines.

NR re-emphasised the need to get this right or we will continue to have Health and Safety concerns raised by members. There is a clear and definite need for framework for guidance that clarifies this situation and a requirement for employers and unions to sit down together to discuss.

FH advised that at the meeting on Friday 27th March clear guidance was published following H&S regulations that gave guidance to police and others. Business and social distance guidance is to ensure all businesses that are non-essential should be closed until they can operate according to health and safety standards and social distancing rules.

The point **NR** made in respect of different classifications, there are 3 groups with different sub sections. The police have also taken a high-profile situation over 48 hours. Wanted to collate a list of those that are operating well and those that aren't and to set up a system which questions relevant companies / organisations. For example: Shenet??? produces circuit boards which are used in ICU equipment – this is considered an essential business. Not all companies within this area of production are such that they should have to be at work. Banks – not all workers within banks require to be at work – they should be able to work at home. The Guidance produced is very strong and FH is going to make sure that this is circulated and understood. This would assist with a firm direction of how to deal with the whisky industry. FH reported that never in her life had she seen such a letter, it was disgraceful (sorry Helen I don't know what letter she means), when people are working in the public health, the tone of the letter was completely irresponsible and misplaced. FH advised that in relation to SWA they were trying to lobby extensively to mobilise everyone and made clear that she will not speak to them until changes are made. We are at critical phase and will see a considerable escalation in deaths. FH had been advised by the Chief Medical Officer to close all non essential business but in advising the Scottish Government do not have the legal powers to close the companies, but they are going to have to address how to work safely. There is a blanket approach to all manners of distillery, including plant by plant and site by site visits – and expects unions to be involved. Engagement with SWA on the basis of ensuring they were operating properly. Companies wishing to be competitive need to ensure that with agreement they need to operate safely. It is in their interests to do this – reference to the Fair Work Statement.

FH reported that in respect of the Aviation issue, the Scottish Government issued a firm statement on people requiring to work on planes which are

no longer flying. FH has conversed with **NR** on the issue of constructions sites and discussions are live and active.

It was noted there are a number of challenges – operating at an emergency level and a need to ensure that there are jobs for people to return. Discussions are taking place on a 4 Nations basis, co ordination is very important – the problem is divergence. Frustrating but trying hard to communicate tougher line with employers. This is part of social distancing guidance.

NR requested clarification of the guidance of 25th and 27th March. FH advised that the guidance issued on 27th followed social distancing regulations giving power to police and made a point of making sure we had tougher wording about non-essential businesses being closed. The standard guidance published on 25 March will continually be updated as the situation develops.

NR reiterated that too much discretion is being left to employers and whilst appreciated what the Scottish Government is doing, employers still must account. There is a degree of discretion and it is making it difficult for unions to argue against. Need to toughen up guidelines.

FH agreed the challenge is considerable because there are so many different businesses / companies. The Scottish Government are encouraging employers to engage with their workers to advise if they are providing essential or non essential work.

Nam intimated that what is needed is an opportunity for dialogue with Scottish Government officials and employers in certain sectors.

FH agreed sector wide guidance – absolutely essential

FH when speaking to distillers will breakdown what is actually required.

NR had to push for discussion with Unite for constructive dialogue over guidance.

Action:

3) Health and Safety in Essential Workplaces

NR advised that he had already written to Jeanne Freeman with regards to health and safety in essential workplaces

FH reported that she had raised COSLA and the issues surrounding social care in order that it receives the attention it needs.

FH further advised that she had spoken with colleague **NR** to have a direct discussion with **NR** on this issue.

[NR] requested that GMB also be involved in discussions with [NR] [NR] as GMB have a large membership in the home care and private care sector.

[NR] reported that there appeared to be a contradiction in the advice provided around PPE as Community and District nurses have been provided different advice. It was noted there are significant levels across home care of sickness and this has to be addressed along with ongoing problems in the private care sector of PPE and the implementation of systems. There is a large degree around Health and Safety employers not consulting with their Health and Safety Reps, and finally it was noted that although there was some good practice in cleansing sector there are still other Councils collecting garden waste with more than one person in the cab.

FH advised that as this was a local government issue it was intimated that they engage with the Communities Secretary on this. PPE exchange information and direct contact on distribution and specific email address sent to input where there are pressures. Agree that pressure point in social care is becoming acute. Issues around support in particular – FH flagged up at cabinet meeting earlier today to ensure that these are examined and what local government can do about best practice.

Action: FH to update [NR] to discuss with [NR] in relation to issues above.

4) Job Retention Scheme and 5) Workforce Exchange Scheme

[NR] reported on the issue of health and safety for essential workers and the importance that people understand at all levels where the difficulty in the food industry is coming from. Subsequently get info that food industry is taking UK Government guidance which is not mandatory for food sector and the Scottish Government needs to raise with the UK Government that this is not acceptable and needs to be tightened up. There are instances where there are 800 workers in close proximity.

With regards to Local government, there is increasing concern as mentioned by [NR] above on the refuse collections with bin lorries carrying 2-3 people in the cab with no hand sanitiser available. Some local authorities are not providing workers with the essentials and workers have been advised that if they go off sick they will only be paid Statutory Sick Pay.

FH requested that colleagues provide a written report so that she can liaise with appropriate colleagues in the Scottish Government to take forward.

Action: **NR** & **NR** to provide written details in respect of local government health and safety issues so that FH can raise with appropriate colleagues in the Scottish Government.

6) Closing Remarks

What does solution look like – need to feed in.

Look at actions in between meetings and feed into.

How come up with some solutions on this.

NR reiterated that this is taken very seriously and these are real issues people are having to deal with every day.