THE UK COVID-19 INQUIRY

MODULE 3

SUBMISSIONS ON BEHALF OF TRADES UNION CONGRESS

FOR PRELIMINARY HEARING, 10th APRIL 2024

INTRODUCTION

1. These are the submissions of the Trades Union Congress (the "**TUC**") for the preliminary hearing on 10th April 2024 in module 3 of the Inquiry. Unfortunately, neither instructed counsel are able to attend the hearing to make oral submissions. No discourtesy is intended, and it is hoped that the same weight will be given to these submissions in writing.

2. The TUC brings together over 5 million working people who make up its 48 member unions. The following affiliated unions have a particular interest in module 3:

   (a) **UNISON**: a general union whose representation includes a broad range of medical, clinical, admin, clerical and support staff.

   (b) **UNITE**: a general union whose representation includes a broad range of medical, clinical, admin, clerical and support staff.

   (c) **GMB**: a general union representing over 35,000 members across the NHS and ambulance services in across the UK, and a broad range of medical, clinical, admin, clerical and support staff.

   (d) **Royal College of Midwives** ("**RCM**"): representing over 50,000 midwives, student midwives and maternity support workers.

   (e) **Chartered Society of Physiotherapy** ("**CSP**"): representing over 63,000 physiotherapists, support workers and physio students.

   (f) **Society of Radiographers** ("**SoR**"): representing radiographers and related staff in the NHS.

(g) **British Dietetics Association** ("**BDA**"): representing almost 10,000 dieticians and support workers in the public and private sector.

(h) **Royal College of Podiatry** ("**RCP**"): representing over 50,000 NHS, independent practice and private chiropodist and podiatrists.

(i) **British Orthoptic Society Trade Union** ("**BOSTU**"): representing Orthoptists

(j) **Hospital Consultants and Specialists Association** ("**HCSA**"): the UK's only professional association and trade union focused solely on hospital doctors, representing over 3,000 members.

(k) **POA**: representing staff in secure settings.

IMPACT EVIDENCE

3. The TUC welcomes the developments in respect of 'impact evidence', and the 100 summary accounts now sought. It is an important development, and it responds to a request made by a number of core participants.

DEPTH OF THE EVIDENCE: DIGGING BELOW THE 'CORPORATE' STATEMENTS

4. Module 3 is in the very early stages of disclosure, but there has been opportunity to review some of the witness statements disclosed thus far. The overriding impression, and concern, is of a proliferation of 'corporate' statements. Much of the evidence is general in nature, and there is a concern that some of it may not fully reflect the practical realities during the pandemic of those providing and receiving healthcare. It is not doubted that the Chief Executives and those in senior management who have provided evidence in disclosed statements wish to assist the Inquiry, but there is also an impression of the evidence being given through the rose-tinted spectacles of persons who may feel that they bear some responsibility for the deficiencies in the services that arose.

5. That characteristic of corporate evidence is not an unfamiliar one: the picture painted in departmental statements in Module 2 often bore little resemblance to less varnished accounts revealed in internal communications, and by some individuals.

6. It is acknowledged that Module 3 (as with other forthcoming modules) faces a particular challenge in this respect. In Module 2 the issues were broad, but the mechanisms of central government decision-making provided a clear and, ultimately, fairly narrow focus. There is no such narrow focus in Module 3. It begs the question: how is the Inquiry to investigate the breadth of the issues in the provision of healthcare in the pandemic across the UK, whilst also achieving an appropriate depth to the evidence?

7. It is, no doubt, in seeking to address that challenge that the Inquiry has identified 'spotlight' hospitals. It is submitted to be important that, at least in relation to the spotlight hospitals, the evidence gathered goes far beyond the account of the most senior levels of management.

8. It may be that the Inquiry has, to an extent, acknowledged the importance of this: paragraph 11 of Counsel to the Inquiry's note states that *"We have specifically requested that the statement is provided by an appropriate individual or individuals who are able to provide evidence about events during the relevant period, rather than a corporate statement from the senior management team at the Trust or Board responsible for that hospital."* That is welcome, but it does not go far enough. It appears to envisage statements from a small number of individuals, or even a single individual, self-selected by the hospital in question. For each hospital, there should be statements from a number of individuals, across the levels of management and the 'front-line', in order to ensure an appropriate breadth to the evidence. The identification of appropriate individuals should be led, or at least overseen, by the Inquiry. If there is sufficiently early disclosure, core participants will also be able to make observations as to further rule 9s that appear to be required.

9. It will also be important that the disclosure of statements is sufficiently in advance of the substantive hearings to enable the core participants to consider whether relevant evidence from spotlight hospitals appears to be missing.

IDENTIFYING THE SPOTLIGHT HOSPITALS

10. Some general information has been given by Counsel to the Inquiry as to the basic parameters for identifying the spotlight hospitals. However, aside from the general explanation as to the geographical spread there is no explanation beyond the Inquiry having considered the questionnaire responses. A fuller explanation would be welcome, not least because some insight as to the reasoning behind a hospital having been identified will assist the core participants in meaningfully engaging with the evidence related to each hospital.

THE LIST OF ISSUES

11. The TUC stands behind its submissions on the list of issues made in advance of the last preliminary hearing. The Chair had previously indicated that a revised list of issues would be provided in 'Spring 2024'. It is now suggested by the Inquiry Legal Team that a second draft *"should be circulated once the disclosed material has been analysed."* That is problematic if, as we suspect, evidence will continue to emerge right up to the substantive hearings. As it stands, there is no direct response from the Inquiry to many of the submissions made in September 2023 as to the list of issues. The Inquiry is invited to provide an amended list so that core participants can understand the approach being made by the Inquiry. The list can, of course, remain provisional, and be amended further as the evidence develops.

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27TH March 2024