THE UK COVID-19 INQUIRY

TRADES UNION CONGRESS AND WALES TRADES UNION CONGRESS:
JOINT CLOSING SUBMISSIONS IN MODULE 2B

INTRODUCTION

1. This is the closing statement of the Trades Union Congress ('the TUC') and the Wales Trades Union Congress ('the Wales TUC') in Module 2B of the UK Covid-19 Inquiry. It largely mirrors the oral closing submissions, with references added.

2. The Wales TUC is an integral part of the TUC but is autonomous in matters devolved to the Welsh Government, which include health, education, transport, economic development and local government. In Module 2B, the Inquiry has heard from the General Secretary of the Wales TUC, Shavanah Taj, both in written and oral evidence as to the impact of the pandemic in Wales. Both the TUC and the Wales TUC aim to provide a voice for working people, and to shine a light on the consequences of decision-making upon the experiences of those at work.

3. From the perspective of the TUC and the Wales TUC, through the lens of those who worked during the pandemic and, in particular, in sectors facing the highest risk, the story of this module is both of the strengths of social partnership, but also of a number of ways in which workers in Wales were failed in the pandemic response. Those are the key themes of these closing submissions: of the value of social partnership, but also of some significant failures.

THE VALUE OF SOCIAL PARTNERSHIP

4. In questioning of Ms Taj, Counsel to the Inquiry went through a list of requests made of the Welsh Government by the Wales TUC and enquired about the extent to which each was actioned. That was an entirely appropriate and important line of questioning. This Inquiry clearly, and properly, appears to have a tight focus on actions: what action was taken and what action ought to have been taken. However, assessing the value and role of social partnership requires more than a narrow analysis of "what was requested" and "what was therefore changed". Inputs and outputs in core political decision making are multi-factorial. A request made of the government being answered may well be indicative of the value of social partnership, but a request being unanswered does not disprove its value.

5. Foundationally, social partnership is much more than a mechanism for demands; it is about sharing views and seeking a shared understanding and approach. It enhances decision-

making in direct but also indirect ways. It enables government to be more responsive to the needs of those at work, but also enhances public confidence in the government, and there is clear evidence of that benefit in the Welsh pandemic response.

6. The then Health Minister was accurate in his evidence when he explained that: "*The Shadow Social Partnership Council was a good forum for sharing information and good practice and for influencing, including the consideration, challenge and enhancement of policy developed in response to the pandemic. It gathered all the main stakeholders across Wales outside of the Senedd and helped to provide similar timing and consistency of message in explaining what evidence we had considered and why we were proposing the actions that we were*".[1] The fora of the Workforce Partnership Council and Shadow Social Partnership Council meetings and parallel consultations by the Welsh Government enabled more meaningful engagement by the Wales TUC and its affiliated unions on sector-specific guidance. For example, input from discussions in meetings of the Shadow Social Partnership Council informed guidance specific to the manufacturing, construction, and retail sectors in Wales.[2]

7. In seeking shared understanding, social partnership also enables governments to avoid the distrust and attrition between government and stakeholders that can be so destructive of good decision-making. This Inquiry has not heard in this module of decision-making driven by a corrosive lack of distrust between government and its partners. In contrast to the evidence in Module 2 in relation to the UK government, the Inquiry has not seen a government in the mode of "no surrender" to unions, making bad decisions out of an instinctive desire to be oppositional. The evidence on that point in respect of UK government decision-making is addressed in the TUC's Module 2 closing submissions.[3]

8. That is not to say that social partnership did not have concrete benefits. There are a number of areas where there is evidence of the tangible, direct benefits of social partnership, which are addressed below.

Engagement on inequality

9. The Inquiry has heard, for example, that there was early engagement with a number of stakeholders, including unions, on issues relating to the disproportionate impact upon black and minority ethnic (BAME) groups. A key example was the Wales TUC's contribution to the health and social care sub-group of the First Minister's BAME advisory group to design a tool which could be used to assess the risk posed by Covid-19 in the workplace, and help protect

[1] WS of Vaughan Gething INQ000391237/14, para. 53.
[2] INQ000180856/2, para. 12.
[3] INQ000399530/32-33, paras. 96-100.

those at greater risk. It was used widely throughout Wales following its introduction in May 2020.[4]

Concrete steps to ensure physical distancing was observed in the workplace

10. As was set out in the Wales TUC and TUC's opening statement, social or physical distancing in the workplace in Wales was supported by concrete steps to ensure it was observed.

11. It was introduced as a legal requirement on 4 April 2020, which formed part of a package of specific rules to support workplace health and safety upon which unions had an opportunity to meaningfully engage. This is of course in contrast to evidence which the Inquiry received in Module 2 regarding the fact that the equivalent provision in England was set out in guidance and only required observation of social distancing 'where possible'.[5]

12. Moreover, in advance of the legal requirement coming into effect, the Wales TUC had advance notice of the provision, having been consulted on it, and had the opportunity to establish a whistleblowing hotline to enable workers to report breaches of the legal requirement.

Government financial support for workers

13. In relation to financial support for self-isolation, there were errors (considered below), but there was also evidence of a responsiveness and an understanding, albeit belated, as to the need to support those continuing to attend work.

14. In the evidence of Rebecca Evans there was, at least, some recognition that adequate financial support for self-isolation would likely have had a positive impact upon transmission of the virus and gone some way to ameliorating the unequal impacts of the pandemic. In contrast to evidence provided by former Chancellor of the Exchequer, Rishi Sunak, in Module 2,[6] Ms Evans readily accepted that financial support for self-isolation was an important issue, likely to disproportionately impact upon those on lower incomes and in insecure work, and that it was an area where she wished action had been taken sooner.[7]

15. That acknowledgement and understanding, to a point contributed to the pandemic response. The self-isolation support payment increased to £750 in August 2021. The aim was to compensate anyone earning up to the personal income threshold applicable to the scheme to the amount of their lost earnings over the 10-day period of isolation. This change reflected an understanding of how the scheme was operating on the ground and the fact that there remained an earnings gap for those earning at the upper end of the income bracket eligible

[4] See the WS of Jane Hutt INQ000366148/32, para. 99.
[5] See, further, TUC written closing statement in Module 2 INQ000399530, paras. 22-24.
[6] Transcript [33/212/9-13].
[7] Transcript [10/119/3 - 10/121/17].

for the scheme. There is also some evidence that, via closer partnership with local authorities, the scheme in Wales was a more accessible one.

Social partnership group reporting on PPE supplies and testing

16. A further, concrete way in which Welsh Government responded to the repeatedly expressed concerns of social partners, including the Wales TUC, was the establishment of a social partnership group to report on the provision of PPE. As Ms Taj set out in oral evidence, this group enabled the Welsh Government to inform key partners about: the stock levels of PPE; efforts being made to procure more PPE; how PPE was being distributed; and when further supplies could be expected. Although this did not immediately resolve the supply issues, it was a reassuring avenue of communication with Welsh Government which enabled social partners to further disseminate the information, ultimately offering reassurance and increasing public confidence on this issue.[8]

17. The Wales TUC further considers that the advocacy received by Welsh Government through this forum, and through other social partnership fora generally, led to the improvements in provision of PPE in the social care sector in particular.

THE WAYS IN WHICH WELSH WORKERS WERE FAILED

18. It is clear that, notwithstanding some of the advantages of social partnership, there were key areas in which workers in Wales were failed.

PPE delivery and workplace guidance

19. A message sent by the then Health Minister, to himself on 24 March 2020, recorded the observations of a Welsh hospital consultant: "*Complete chaos at our hospital. No protection for nurses, very low morale… masks not being released*".[9]

20. This account is reminiscent of the many reports unions were receiving from frontline workers, not only those in health care, but in social care and the many other sectors which continued to work through the early stages of the pandemic notwithstanding the difficulties they were facing in accessing PPE.

21. The issue was one not only of scarcity of supply of PPE – and indeed the then Health Minister gave evidence that international supply chains had "*collapsed rapidly around us*"[10] – but of inadequate workplace guidance on the circumstances in which PPE was required. In her evidence, Shavanah Taj, described the instance where the Wales TUC was contacted by the husband of a mental health nurse, who had been in physical contact with a patient who had

[8] Transcript [7/86/1 - 7/88/23].
[9] INQ000299062.
[10] Transcript [9/225/5-12].

later tested positive for Covid-19, but had not been wearing PPE, due to an assumption during the early stages of the pandemic that it was not necessary in that setting for PPE to be worn.[11]

22. In the instance involving the mental health nurse, and in relation to many other reports of lack of access to PPE in the workplace, the Wales TUC was able to pass that report on to the minister via the Welsh Government advisers. However, it was an issue which persisted: as Ms Taj set out in oral evidence, it was an area in which the Wales TUC felt they had to "*keep pressing*" the Welsh Government.[12]

Timeliness of financial support for self-isolation

23. Though the provision of financial support for self-isolation had its strengths from the Welsh perspective, it also had its failures. From the outset of the pandemic, the TUC and the Wales TUC raised concerns with the UK Government and with the Welsh Government that, for many workers, self-isolation was either costly or impossible due to the inadequacy or non-availability of sick pay.

24. Indeed, as was highlighted in the TUC and Wales TUC's opening statement to this module, independent research commissioned by the Welsh Government and Public Health Wales revealed the importance of proper financial support for self-isolation, noting that "*Financial challenges were regularly highlighted with a decreased income but bills remaining the same or even increasing. Self-isolation added to the cumulative effect of the pandemic on some people's finances*".[13] It was well-known in Wales that this was a critical issue. This was more than a matter of fairness. Poor adherence to self-isolation placed an upward pressure on the R-rate, and so it was a matter of keeping that R-rate under control. Self-isolation was a means of supressing the R-rate which did not have the awful impacts of measures such as closing schools, and that was all the more reason for it to have been a focus. It was also an issue that affected those on low incomes in high-risk jobs, who already faced poorer health outcomes, and so it was a matter of taking measures that lessened some of the disparate impacts of the pandemic.

25. The UK Government was far too slow to respond to this issue, with a financial support scheme not introduced until September 2020, but in Wales the response was even slower. The main financial support scheme was brought in a month later, and 8 months after self-isolation was introduced as a key non-pharmaceutical intervention (NPI).

[11] Transcript [7/82/19 - 7/83/10].
[12] Transcript [7/85/9-14].
[13] INQ000056339/3.

26. Tellingly, countries that properly supported self-isolation did better, South Korea being an example. Although stating the Welsh Government was "well served" by its knowledge of what was happening elsewhere in the world, the then First Minister was reluctant to acknowledge that lessons could have been learned during the pandemic from a country such as South Korea when it came to the imposition of NPIs, due to the different "cultural context".[14] The TUC and the Wales TUC do not agree, and consider that lessons could be learned from other countries: supporting self-isolation made just as much sense in Wales, and there were no cultural barriers to doing so.

27. In response to questions put to her on behalf of the TUC and Wales TUC, the Minister for Finance and Local Government accepted that she would have wanted to provide financial support sooner[15] and further accepted that the point of the Barnett guarantee being provided to Welsh Government in July 2020 could have been a point at which financial support was introduced.[16]

28. This was another key area in which workers in Wales were failed.

Social care

29. The third relates to those working in the social care sector. The need in Module 6 to consider the structural problems within social care sector, and the need for reform of the arrangements for responding to a pandemic, is ever clearer. It is striking that the then Health Minister, for example, saw it as government going above and beyond its role, in an unprecedented way, to take any steps at all to support the provision of PPE to those in the sector.[17] Perhaps that is right, but it shows the utter void that needed to be filled.

30. The treatment of the social care sector as a Cinderella service is exacerbated by the lack of centralised oversight and centralised data collection. In turning to try and address some of the demands in the social care sector, the Welsh government did not even have the starting point of knowing who the providers of care were. As the First Minister, Mark Drakeford, said in his evidence, "*there is no single register of where every care home in Wales is located*".[18] This mirrors strikingly similar evidence provided by former UK Government Minister for Health and Social Care to Module 2 of this Inquiry.[19] It is no wonder that the UK Government and Welsh Government were unable to protect social care workers during the pandemic.

31. As the Chief Executive of the Welsh Local Government Association, Dr Chris Llewelyn, explained: "*I think there was a general sense that the needs of social care staff as a whole*

[14] Transcript [11/66/12 - 11/67/14].
[15] Transcript [10/120/2-6].
[16] Transcript [10/122/3-10].
[17] Transcript [9/228/2 - 9/229/11].
[18] Transcript [11/211/13-24].
[19] Transcript [30/31/9-16].

weren't being taken into account, […] *I think there was a sense within the workforce that they were being neglected* […] *there was an issue of parity of esteem with other healthcare workers.*"

32. This, too, exacerbated the disproportionate impact of the pandemic, including, of course, upon those who rely on social care services, but also upon the workforce, which is disproportionately female, Black and Minority Ethnic, older, migrant and/or disabled.

33. The Wales TUC encountered significant difficulties in their advocacy on behalf of social care workers. For example, as Ms Taj explained in her evidence, the Wales TUC requested that Welsh Government utilise the consequential funding from the infection prevention and control fund introduced in England in May 2020 to provide equivalent funding for care sector workers in Wales. However, as at October 2020, no such funding had been provided and the Wales TUC still did not have a clear explanation as to the cause of the delay.[20]

34. There has been evidence in this module about the sensitive topic of ingress of the virus into care homes, and the most significant route being via care staff. The narrative that sees care staff as vectors of the virus is one that looks through the wrong end of the telescope. It will inevitably compound the feeling in the sector of staff being undervalued and unappreciated. Particularly with asymptomatic transmission, care staff carrying the virus is unavoidable, so the question is what could have been done about it. The narrative should be one that asks why it is that we have a care sector serviced by so many in insecure work working across many homes; why was so little done to support the sector in restricting movement of staff between homes; why was there not better PPE to protect both staff and residents. Those are the relevant questions: not simply, "did care staff carry the virus?".

Workplace enforcement of guidance and regulations

35. The fourth area in which Welsh workers were failed relates to enforcement of health and safety in the workplace. As Ms Taj set out in her witness statement, the Wales TUC found consistent evidence that a significant number of employers failed to take sufficient infection prevention and control measures during the pandemic.[21] This situation came about, in part, due to the dearth of proper enforcement, both by the Health and Safety Executive and by local authority environment health protection officers. As the TUC and its sister organisations have pointed out on numerous occasions during the life of this Inquiry, inadequate funding of bodies able to enforce health and safety standards in workplaces has resulted in enormous reductions in the occurrence of in person workplace inspections and enforcement actions.

[20] Transcript [7/97/15 - 7/98/18].
[21] INQ000273633/3, para. 9.

36. As a result, many workers faced unsafe conditions during the pandemic and had very little recourse to report workplace health and safety issues other than to their union representatives.

CONCLUSION

37. The evidence in Module 2B demonstrates that a more mature, professional, and open form of central government is achievable. A government that meaningfully engages with the views of stakeholders, including trade unions, is a government that is better placed to make effective and reasoned decisions during a crisis. It is welcome that the Welsh Government has confirmed this approach for the future by establishing the Social Partnership Council in law and placing a social partnership duty on devolved public bodies. It is an approach of consultation and engagement which should be embraced and strengthened before a future pandemic.

38. That being said, in Module 2B we have also seen areas in which workers in Wales were failed. Many faced difficulties in securing the necessary PPE, financial support for self-isolation was far too slow to be introduced, there was a profound lack of support for the social care sector and inadequate inspection and enforcement of workplace guidance and regulations. As a result, workers in Wales, integral to keeping the country going during the pandemic, were unnecessarily placed at risk and suffered physical, mental and financial harm.

39. There is a need to ensure that these lessons, both positive and negative, are learned, robust recommendations made, and steps taken to ensure that, if and when Wales faces any future pandemic or emergency, the country is better placed to respond.

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