IN THE UK COVID-19 PUBLIC INQUIRY

CHAIR: BARONESS HEATHER HALLETT

On behalf of the TUC

Kevin Rowan Statement

First Witness Statement in Module 3

Dated: 23 November 2023

WITNESS STATEMENT OF KEVIN ROWAN (THE TUC)

I am Kevin Rowan, Head of Organisation and Services Department of the Trades Union Congress ("TUC"). My office address is Congress House, Great Russell Street, London, WC1B 3LS.

1. I make this statement on behalf of the TUC in response to a letter dated 19 May 2023 sent on behalf of the Chair of the UK Covid-19 Public Inquiry (the "Inquiry"), pursuant to Rule 9 of the Inquiry Rules 2006. This statement is made for the purposes of Module 3 of the Inquiry, which is examining the impact of the Covid-19 pandemic on healthcare systems in England, Wales, Scotland and Northern Ireland. As requested, this statement focuses on the period of time between 1 March 2020 and 28 June 2022. This statement focusses on the Health and Safety Executive ("HSE") and the investigation and reporting of workplace deaths during the pandemic. I understand that a separate witness statement will be provided on behalf of the TUC addressing the pre-pandemic state of healthcare systems across the UK and the impact of the pandemic on healthcare staff.

2. This statement is structured as follows:
    a) Introduction;
    b) The structure and role of the TUC;
        The relationship between the TUC and its sister organisations in the devolved nations
        TUC Governance
        The TUC's role in relation to workers in the healthcare sector across the UK
        Forums for engagement with unions
        Use of these existing forums in the pandemic
    c) The Health and Safety Executive;

The role of HSE and Local Authorities in inspecting and enforcing regulations, legislation and guidance
The national HSE Covid-19 spot check inspection programme
Enforcement Management Model
Under-reporting of occupational exposure to Covid-19
Failure to classify Covid-19 as an occupational disease

d) Conclusion and lessons learned.

A. INTRODUCTION

3. The TUC was founded in 1868 and brings together 5.5 million working people that make up its 48 member unions, from all parts of the UK. The TUC seeks to stand up for everyone who works for a living, making sure their voices are heard, by publishing research and evidence and campaigning for changes to the law and in society. We seek to put working people at the heart of our society, economy and politics. We do this by supporting trade unions to grow and thrive, helping them represent their members and keep pace with the changing world of work. We advocate for collective bargaining and trade unionism and we aim to help union members get on in life.

4. Our values guide us in all our work. We stand for equality, fairness and justice, and for dignity and respect for all working people. We believe in solidarity: that working people can achieve more acting together than they can do on their own. And we are internationalists, acting with trade unionists around the world to promote working people's interests.

5. I joined the TUC in 2002 as the Regional Secretary of the Northern TUC, a position I held for 10 years before taking on my current role as Head of Organisation and Services Department. I was also appointed as a Non-Executive Director of the HSE in 2016, holding term of office from 1 June 2016 until 31 July 2021. I am therefore well-placed to provide evidence relating to the HSE and the investigation and reporting of workplace deaths during the pandemic.

B. STRUCTURE AND ROLE OF THE TUC

6. The TUC supports trade unions to grow and thrive, and we stand up for everyone who works for a living. We campaign for more and better jobs, and a more equal, more prosperous country.

7. The TUC has 48 member unions, each of which is listed at [Exhibit KR/1 - INQ000119021]. The TUC exists to support its member unions and the members of those unions. In doing so, it brings together 5.5 million working people. The member unions of the TUC span a wide array of sectors, across the UK, all of which were affected by the pandemic. The sectors represented by the TUC member unions include workers in construction and manufacturing, railways, aviation, education, food industries, communications workers, fire and rescue services, the civil service, and the arts. They also include the whole range of health and social care services, for example:

    a) AEP (Association of Educational Psychologists), which represents educational psychologists and assistant educational psychologists;
    b) BDA (British Dietetic Association), which represents dieticians;
    c) BOSTU (British Orthoptic Society Trade Union), which represents orthoptists;
    d) CSP (Chartered Society of Physiotherapy), which represents chartered physiotherapists, physiotherapy students and support workers;
    e) GMB, which represents workers in ambulance services, porters, cleaners, caterers, health care assistants, admin workers, call handlers and patient transport workers;
    f) HCSA (Hospital Consultants and Specialists Association), which represents hospital consultants, staff and associate specialist doctors and registrars;
    g) POA (The Professional Trade Union for Prison, Correctional and Secure Psychiatric Workers), which represents staff in penal or secure establishments or special hospitals and nurses;
    h) RCM (Royal College of Midwives), which represents practising midwives and maternity support workers;
    i) RCP (Royal College of Podiatry), which represents chiropodists and podiatrists;
    j) SoR (Society of Radiographers), which represents radiographers and related staff in the NHS;
    k) UNISON, which represents nurses and student nurses, midwives, health visitors, healthcare assistants, paramedics, cleaners, porters, catering staff, medical secretaries, clerical, admin staff and scientific and technical staff; and
    l) Unite, which represents allied health professions, healthcare scientists, psychologists, psychotherapists, dental professions, audiologists, optometrists, building trades, estates, maintenance, administrators, support services and ambulance services.

8. During the course of the pandemic, the TUC was led by its then General Secretary, Frances O'Grady. Following her retirement, she was replaced as General Secretary by Paul Nowak, who commenced his role in January 2023.

The relationship between the TUC and its sister organisations in the devolved nations

9. The Wales TUC ("WTUC") is part of the TUC and sits within the TUC's Organisational Services and Skills Department. It is an integral part of the wider organisation but autonomous in some policy areas. The WTUC consists of trade unions that are affiliated to the TUC and who have members in Wales and trades union councils in Wales registered with the WTUC. The WTUC has devolved responsibility within the TUC for: matters which are within the powers of the Welsh Government and the Senedd; matters that are wholly specific to Wales; and developing policy on matters which impact substantially differently on Wales than elsewhere in the UK. Regarding clearly UK-wide, non-devolved matters that do not impact Wales substantially differently to the rest of the UK, WTUC provides advice to the TUC on delivery in the Welsh context.

10. The Scottish TUC ("STUC") is not part of the TUC; it is an independent trade union centre to which trade unions affiliate their Scottish membership. The STUC represents over 540,00 trade union members in Scotland from 40 affiliated trade unions and 20 trade union councils and is governed by the STUC General Council who are elected annually at Congress.

11. The Irish Congress of Trade Unions is also an independent trade union centre. It represents trade union members across both Northern Ireland and in the Republic of Ireland. The Northern Ireland Office (ICTU-NI) is responsible for all issues affecting nearly 250,000 members in 36 unions in Northern Ireland. Many of the functions of that office are similar to those in Head Office of the Irish Congress, although the Northern Ireland Office operates, of course, within a different environment, dealing with British trade union legislation and a significantly different economic and social environment.

12. The TUC works in partnership with our sister centres in devolved nations within the UK, either through an integrated formal structure with WTUC or though collaboration with STUC and ICTU-NI where we campaign on UK-wide issues of relevance to our members. This relationship is formalised with the STUC, WTUC and Irish Congress of Trade Unions through a body known as the Council of the Isles, which brings representatives from each trade union centre on an annual basis. For clarity, unless otherwise indicated, this statement refers to matters in England only.

TUC Governance

13. TUC policy is set by Congress each year. Between Congresses, responsibility lies with the General Council. The 56 members of the General Council meet every two months at Congress House to oversee the TUC's work programme and sanction new policy initiatives. The larger unions are automatically represented on the General Council, with up to ten members depending on the size of the union. The smaller unions ballot for a number of reserved places. There are also seats reserved for women and Black workers, and a reserved space for one representative each of young workers, workers with disabilities and LGBT workers.

14. Each year at its first post-Congress meeting, the General Council appoints a 24-member Executive Committee for the year from amongst its own members. This meets monthly to implement and develop policy, manage the TUC financial affairs and deal with any urgent business. It also appoints the TUC President for the year.

15. Task groups are set up by the General Council to deal with specific areas of policy such as learning and skills or representation at work. Committees are permanent bodies which link to other parts of the trade union movement. The Women's Committee includes members elected at the annual TUC Women's Conference as well as General Council members. The Race Relations Committee, the Disability Committee and the LGBT Committee have similar links to their own conferences. The Young Members' Forum also reports to the General Council, as does the body representing Trades Union Councils (local trade union bodies).

16. In addition to Committees, the TUC has also a number of advisory groups which bring unions together to inform TUC strategy with a specific thematic or sectoral focus. This includes the Trade Union Sustainable Development Advisory Committee (TUSDAC), the Union Health and Safety Specialists (UHSS) the Union Legal Officers Network (ULON) and the Public Services Liaison Group (PSLG).

17. The PSLG includes senior representatives of 22 unions with members in the public sector. During the pandemic it played a particularly important role within the TUC, advising on the impact of the pandemic on key workers providing public services, workplace safety management – including the provision of PPE - and the response of public service providers to managing the pandemic, including health, social care and education.

18. In addition to Paul Nowak, our General Secretary, and Kate Bell, our Assistant General Secretary, our Senior Management Team is made up of the Heads of Department

representing different teams within the TUC, all of whom played a key role in the pandemic both in terms of their liaison with affiliated unions and public-facing campaigns and communications, but also the part they played in engaging directly with government ministers and senior civil servants. As I have already explained, I am Head of Organisation and Services, which covers health and safety, public services, TUC regions and education. The other Heads of Department are as follows:

(a) Antonia Bance, Head of Campaigns and Communications – covering campaigns, media, social media and communications.

(b) Kudsia Batool (and formerly Alice Hood and Nicola Smith), Head of Equalities and Strategy – covering policy work and support for women, BAME, disabled and LGBT workers.

(c) Matilda Quiney, Head of Management Services – covering corporate affairs, personnel and internal management services.

(d) Nicola Smith, Head of Rights, International, Social and Economics – covering work on boosting employment rights, promoting social and economic policies and building international solidarity.

The TUC's role in relation to workers in the healthcare sector across the UK

19. There are a number of ways in which the TUC works with its member unions, in particular:

(a) The TUC briefs member unions on economic, equalities, workplace and social policy, and on trends in the workplace and economy. The TUC also supports unions by engaging with government and political parties on the development of policy. The TUC co-ordinates union representation on public bodies and supports ongoing formal discussions with government, such as the joint forum for government and unions with members working in the public sector.

(b) Every year, the TUC trains thousands of union reps, enabling them to develop the skills, knowledge and confidence to represent their members at work.

(c) The TUC helps unions to grow, organising training and working alongside unions to develop their recruitment and organising strategies.

(d) The TUC supports the professional development of staff who work for unions, through formal training and through best practice events. We run a number of

informal networks for trade union staff in similar jobs – for example, legal officers, HR officers, political staff and communicators.

20. The TUC's member unions then represent their members, including workers in the healthcare sector as set out in paragraph 7 above, for example, through negotiating and bargaining on their behalf, campaigning for better working conditions and pay, and providing advice and support. I understand that a separate witness statement on behalf of the TUC will provide more specific detail on this in the context of the Covid-19 pandemic.

Forums for engagement with unions

21. In contrast to the experience of the TUC in Wales and Scotland, at the outbreak of the pandemic there was virtually no machinery in place for regular dialogue or engagement between the UK government and the TUC or its member unions.

22. Although there would, of course, be meetings and correspondence with ministers and civil servants on specific issues across a range of departments as a matter of the everyday work of the TUC, there was nothing approaching the levels of social partnership, joint decision-making or sector wide agreements and initiatives that were in place between unions and the devolved governments of Scotland and Wales.

The Public Services Forum (PSF)

23. Beyond the participation of trade union representatives in certain government agencies such as the HSE and the Low Pay Commission, the only vestiges of strategic engagement between the TUC, its member unions and central government departments was through the PSF. By strategic engagement, we mean structured dialogue and action with government directly related to strategic issues affecting the public service workforce - not matters of pay and terms and conditions which are dealt with through different forms of negotiating structures and Pay Review Bodies.

24. Formed by the Labour government in 2003, the PSF is Chaired by the Minister for the Cabinet Office (MCO) or Chancellor of the Duchy of Lancaster (CDL) and brings together key government departments, such as the Cabinet Office and HM Treasury, public sector unions and employers, including the Local Government Association (LGA) and NHS Employers, as well as third sector and business organisations with the aim of planning joint approaches to strategic issues concerning the public sector and public sector workforce.

25. Regular attendees at PSF meetings since its inception include:

(a) The TUC along with affiliated unions with membership in the public sector, including UNISON, Unite, GMB, NEU, NASUWT, UCU, PCS, FDA, Prospect, CSP and RCM.

(b) Government departments including Cabinet Office, HM Treasury and Department of Health and Social Care.

(c) Employer organisations in the public sector and beyond, including the Local Government Association (LGA), NHS Employers, the National Council for Voluntary Organisations (NCVO) and the Confederation of British Industry (CBI).

26. The PSF does not have a formal decision-making role but can agree joint initiatives with government departments – the most recent project being the development of a good work and well-being programme to foster partnership with unions and encourage good employment practices across the public sector.

27. Although a Labour government initiative, successive Conservative-led administrations have maintained the PSF since 2010. However, in recent years the PSF has met infrequently and joint initiatives, including the health and well-being project, were not followed through to completion or were not given effective promotion due to dwindling resources and ministerial focus. For example, the PSF met at least twice a year between 2011 and 2019 but met just three times across 2019 and 2020. It has not met since 22 June 2020, despite numerous written requests from the TUC asking for the PSF to be reconvened, a number of which have gone unanswered by various Ministers – the TUC sent letters to Steve Barclay on 21 September 2021 [Exhibit KR/57 - INQ000351028], Nadim Zahawi on 13 September 2022 [Exhibit KR/58 - INQ000351029], Chris Philp on 13 September 2022 [Exhibit KR/59 - INQ000351030], Esther Wallington on 24 June 2022 [Exhibit KR/60 - INQ000351031] and John Glen on 8 November 2022 [Exhibit KR/61 - INQ000351032], with the only response coming from Steve Barclay on 31 October 2021, stating that his office would be in touch [Exhibit KR/62 - INQ000351033]. The TUC also raised the issue with Cabinet Office officials NR NR in online meetings on 25 March 2021, 9 June 2021 and 15 October 2021 (for which I am not in the possession of any relevant documents) and by email on 25 May 2021 [Exhibit KR/63 - INQ000351034], 14 June 2021 [Exhibit KR/64 - INQ000351035], 25 June 2021 [Exhibit KR/65 - INQ000351036], 30 June 2021 [Exhibit KR/66 - INQ000351037], 18 August 2021 [Exhibit KR/67 - INQ000351038], 20 September 2021 [Exhibit KR/68 - INQ000351039] and 10 November 2021 [Exhibit KR/69 - INQ000351040].

The NHS Social Partnership Forum (SPF)

28. While at the outbreak of the pandemic the PSF was the only structural engagement between the TUC and government ministers at a cross-sectoral level, there were systematic forms of engagement between unions, employers and ministers within the healthcare sector through the NHS SPF and also the civil service, through the National Trade Union Committee (NTUC). The NHS SPF in its current form was established in 2006 and is chaired by the Secretary of State for Health and formed of senior representatives of the Department of Health, NHS England, Health Education England, NHS employers and unions. It is a more fully resourced and effective structure than the PSF. It has a permanent secretariat, as well as a series of working groups on different issues as well as regional SPF machinery that reflect arrangements at the national level. A new SPF group was established for the pandemic, called the 'Covid-19 SPF Engagement Group'. This had an expanded membership, for example including representatives from Unite and GMB. The group's first meeting was on 30 March 2020 and it met weekly until 21 July 2020, after which meetings were held fortnightly.

29. SPF initiatives were carried through on a number of issues related to workforce development and change, health and well-being across trusts and NHS regions over a number of years and proved to be a useful forum for addressing some of the challenges arising from the pandemic. Although, implementation of SPF initiatives at the local level was variable and not always successful.

Use of these existing forums in the pandemic

30. The PSF met on three occasions in the first 3 months of the pandemic, on 24 March 2020 [Exhibit KR/2 - INQ000119022], 7 May 2020 [Exhibit KR/3 - INQ000119023] and 22 June 2020 [Exhibit KR/4 - INQ000119024] and this was also supplemented by a specific CDL roundtable with public sector unions on 9 April. These PSF meetings had a focus on public service capacity, provision of PPE and management of safety in public service settings. There was no particular focus on healthcare issues in these meetings, although they would sometimes be discussed.

31. In addition to the collective engagement through the PSF and union roundtables, three further one to one meetings were held between the CDL and Frances O'Grady on 3 April 2020, 22 June 2020 (ahead of the PSF) and 19 November 2020 – again covering a broad range of issues related to public services, test and trace, PPE provision and schools policy.

32. The NHS SPF met on average every month throughout the pandemic. Matters discussed varied at each meeting but key, consistent themes were issues such as the availability of PPE and the risk to BAME workers. I exhibit notes of some of these meetings between March 2020 and April 2021 [Exhibit KR/5 - INQ000119025]; [Exhibit KR/6 - INQ000119026]; [Exhibit KR/7 - INQ000119027]; [Exhibit KR/8 - INQ000119028]; [Exhibit KR/9 - INQ000119029]; [Exhibit KR/10 - INQ000119030]; [Exhibit KR/11 - INQ000119041]; [Exhibit KR/12 - INQ000119054]; [Exhibit KR/13 - INQ000119067]; [Exhibit KR/14 - INQ000119081]; [Exhibit KR/15 - INQ000119092].

C. THE HEALTH AND SAFETY EXECUTIVE (HSE)

33. The TUC continued to have concerns about the inspection and enforcement of public health and coronavirus regulations and legislation where they applied in the workplace. Although the basic health and safety legislative framework was in place, evidence was frequently emerging as to a lack of basic precautions in workplaces and an apparent inability to take a rigorous and proactive approach to inspecting and enforcing the relevant regulations in those workplaces.

34. In particular, the HSE has been so chronically underfunded that it was unable to perform any effective regulatory role in workplaces during the pandemic. There were similar problems in respect of local authority enforcement.

The role of HSE and Local Authorities in inspecting and enforcing regulations, legislation and guidance

35. The Health and Safety at Work Act 1974 lays out a general duty on all employers to ensure the health, safety and welfare at work of all their employees. The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide welfare facilities (including the right number of washbasins), a healthy working environment (including a clean workplace with good ventilation and the right amount of space and heating) and a safe workplace. There are specific laws relating to some higher risk workplaces. The Management of Health and Safety at Work Regulations 1999 imposes a legal duty on all employers to carry out risk assessments. Regulation 3 imposes a duty upon the employer to make a *"suitable and sufficient assessment"* of the risks to health and safety of the employees. Advice as to what is *"suitable and sufficient"* is given by the HSE in its approved code of practice to the Regulations. Further, the effect of the Control of

Substances Hazardous to Health Regulations 2002 was to require specific Covid-19 risk assessments.

36. The HSE stopped carrying out routine inspections after the lockdown announcement in March 2020. Instead, it set out the role that it would play in enforcing regulations at work – along with Local Authorities – in an exchange of emails with the TUC in March 2020. In an email of 31 March [Exhibit KR/16 - INQ000119160], the HSE confirmed that:

    - Key guidance on tackling Covid-19 as a public health risk was the responsibility of DHSC, PHE and other bodies such as BEIS.
    - The HSE worked closely with these organisations to provide advice on workplace issues, signposting to relevant guidance and encouraging businesses to follow it.
    - Under the Health and Safety at Work Act 1974, employers have a duty to ensure, as far as is practicable, the health, safety and welfare of their employees at work. And that if an employer is following relevant PHE guidance for their sector, the HSE was confident that they will be taking practicable precautions to control workplace risk.
    - When it comes to the attention of the HSE that employers are not taking action, the HSE has a range of actions to improve control of risks ranging from specific advice to employers to issuing enforcement notices and prosecution.
    - Local Authorities had recently been given new powers under the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 to close premises, where the government has ordered them to close and where they had not done so. For other premises, Local Authorities should be taking the same approach as the HSE – responding to concerns raised directly with them.
    - Workers with a genuine health and safety concern that appropriate practice is not being followed and they are unable to resolve through their employer or trade union, were advised to contact the relevant LA or HSE.
    - In the case of the HSE, this could be done through the Concerns and Advice Team.

37. It was clear from this that the HSE and Local Authorities had the powers to not only signpost and encourage employers to follow relevant guidance but to take action where concerns were raised around non-compliance with the full range of relevant NPIs set out in that guidance.

38. However, the ability in practice to respond to concerns being raised was limited. As the TUC observed in the 3 April 2020 report, '*Protecting workers' safety in the coronavirus*

pandemic' [Exhibit KR/17 - INQ000119236], *"Currently there is little in the way of enforcement to prevent employers from failing to follow measures. It is not clear how reports are made, how viability of the measures is determined, or what threshold of measures must be broken for the HSE or Environmental Health and Trading Standards to investigate a breach. Nor is it clear the detail of any penalties which could be incurred."*

39. Subsequently, on 27 April 2020 and in the context of the easing of the first national lockdown, the TUC reported in '*Preparing for the return to work outside the home- a trade union approach'* [Exhibit KR/18 - INQ000119244] that:

> *Unions have heard too many reports of workers expected to work in unsafe conditions. We are extremely concerned by the failure of enforcement agencies to take action against employers who are putting the health and safety of their workers in jeopardy during this pandemic. We continue to press the government to enforce Public Health England's guidance on every employer whose staff are continuing to work. We want to see further tough enforcement action against employers whose actions have put staff at risk and call on the relevant enforcement agencies (including the HSE and local authorities) to act to guarantee worker safety.*

40. In a TUC poll of 2,231 workers, conducted by BritainThinks between 19 and 29 November 2020, only 48% were confident that their employer had carried out a Covid-19 risk assessment [Exhibit KR/19 - INQ000119269]. The scale of the problem was identified in the TUC's biennial survey of its affiliated union safety representatives. The report is used by the TUC to understand the changing experience of safety representatives at work and to help provide more support. The survey is also used to inform public policy debates. In the 2020/21 survey additional questions were added to ask specifically about workplace health and safety during the pandemic. 2,138 safety representatives responded and the results were reported in March 2021 in the '*Union Health and Safety Reps Survey, 2020/2021*' [Exhibit KR/20 - INQ000119162]. The report identified widespread non-compliance with guidance and variable implementation of NPIs in the workplace. For example, despite government guidance indicating that employers of more than 50 workers should publish their risk assessment on their public website, only 44% of all respondents to the survey in workplaces of more than 50 employees confirmed that their employer had done so. A significant proportion of safety reps felt that sufficient and appropriate PPE had not always been provided, with the worst case being in NHS hospitals where 44% felt this to be the case. Fewer than one in three safety representatives said their employer

was implementing appropriate physical distancing between employees all of the time, with just 37 per cent saying they were doing so "most of the time".

41. The survey also identified the low levels of workplace visits by health and safety inspectors, be they HSE inspectors, Environmental Health Officers or other relevant safety inspectors. The responses to the survey indicated that more than six in 10 safety representatives did not know of any visit ever by the relevant safety inspectorate. GMB was receiving similar reports from its lay members – for example, in the early part of 2021, Brixham Hospital had seen an exceptionally high level of staff reporting absence due to Covid-19 but HSE did not visit as "*they had limited time*" [Exhibit KR/21 - INQ000250944].

42. On 11 May 2020 the Prime Minister stated that: *"We are going to insist that businesses across this country look after their workers and are covid-secure and covid-compliant. The Health and Safety Executive will be enforcing that, and we will have spot inspections to make sure that businesses are keeping their employees safe"* and promised additional funding of £14 million for the HSE [Exhibit KR/22 - **INQ000269860**] Subsequently, on 14 May 2020, Frances O'Grady of the TUC wrote to Sarah Albon, Chief Executive of the HSE, seeking a telephone meeting to discuss how the TUC and the HSE could work effectively together to promote safety at work during the pandemic [Exhibit KR/23 - INQ000250945]. The meeting took place on 20 May and it is clear from the notes of that meeting that the HSE was struggling to fulfil its role in the face of the pandemic – Ms Albon stated that, whilst the extra money was welcome, they could not "*magic up a cohort of new inspectors*" [Exhibit KR/24 - INQ000250946]. Ms O'Grady highlighted the potential role that union safety reps could play in ensuring proper engagement between employers and employees, and that one of the main concerns was employers potentially using PPE to avoid social distancing for workers (something that, unfortunately, was proven to be true in a number of hospitals – see paragraph 54 below). Ms Albon shared the TUC's concerns and expressed her appreciation for the TUC's support and acknowledged that, without TUC pressure, it would probably not have received the additional funding from government.

43. However, by early June 2020, the HSE had received over 6,000 additional concerns from workers about social distancing and other pandemic related matters. The impression of the TUC and affiliated unions was that the HSE response fell woefully short, and that is supported by the HSE's own reporting of its response [Exhibit KR/25 - INQ000119164]. Significantly, of over 6,000 concerns:

    a) 2,684 were passed to HSE 'field teams' for follow up;

b) of those, 1,331 were considered to require no further action;

c) in 581 cases the action was limited to verbal advice (512) or a letter (69); and

d) only 47 concerns were responded to with a physical inspection, and one prohibition notice was served.

44. That is striking: six months into a pandemic which had terrible consequences in so many workplaces, the HSE had conducted 47 site visits and issued 1 prohibition notice. It was wholly inadequate. The HSE also confirmed that it had not conducted a single inspection of a care home since 20 March 2020, although it *"continues to receive concerns about worker safety issues related to coronavirus in care homes and is actively investigating these"*. In June 2020, the House of Commons Work and Pensions Select Committee observed that the HSE had received thousands of concerns regarding safety at work during the pandemic but had required only one business to close and it had not inspected a single care home since 10 March 2020 [Exhibit KR/26 - INQ000192256].

45. On 31 May 2020, Mike Clancy, the General Secretary of Prospect, wrote to the Prime Minister raising concerns, saying [Exhibit KR/27 - INQ000119165]:

> *"You recognised the vital contribution of the HSE earlier this month when you told the House of Commons that "The Health and Safety Executive will be enforcing (the new workplace guidelines) and we will have spot inspections to make sure that businesses are keeping their employees safe." I am sure your endorsement of the HSE was heard clearly and the implicit appreciation that strong approaches to health and safety are more important than ever. As you know, the cuts to the HSE in recent years have left them in the position where they will struggle to play the role that you envisage and they would want. You have seemingly recognised that this is the role that the public and business would also expect them to deliver. An additional £14m has been made available to the HSE, however, this only replaces a fraction of the real terms cuts since 2010 and it will not be available to recruit skilled specialist staff who take a long time to train. The current position of HSE is that they will not be undertaking physical inspections of workplaces; instead inspections will occur over the phone. Even if physical inspections were occurring, the fact that there are fewer than 500 main grade inspectors means that it is unlikely that any individual workplace would be inspected"*

46. Whilst on 11 May 2020 the Prime Minister had described a system of 'spot checks' to ensure safety in workplaces, and even with the additional £14 million of funding for the

HSE, in practice, this amounted to little or no enforcement. As described in the IER Report referenced below [Exhibit KR/28 - **INQ000103571** 'spot check calls' followed a three-stage process, whereby stage one was a 15-minute telephone call following a scripted question set according to the Covid-19 guidance, stage two was a more detailed telephone conversation delving into any areas of potential concern and stage three was on-site inspection. The telephone calls were largely carried out by outsourced, private providers and a very small proportion of Covid-19 spot checks led to further action. In the six months from 1 April 2020 to 30 September 2020, a total of 15,622 spot check calls were made, supplemented with 4,938 spot check visits. But in total, this Covid-19 enforcement activity generated just 78 notices and zero prosecutions.

47. The TUC wrote to Alok Sharma, then Secretary of State for BEIS, on 5 October 2020, expressing concerns around the spot check system and the lack of powers available to private contractors carrying out those spot checks [Exhibit KR/29 - INQ000250947]. Ms O'Grady stated:

"*We understand that the arrangement for the subcontracting of physical spot checks is a temporary measure that the HSE has chosen to employ as part of its emergency funding package this year. This is a clear indication that the funding for our key enforcement agency remains insufficient and visits to workplaces by under qualified and inexperienced individuals cannot replace a system of statutory enforcement and inspection. Ultimately the HSE needs the investment to rebuild its capacity and resources in a sustainable way.*"

48. Mr Sharma replied on 21 October 2020, seemingly of the view that the spot check system and the funding allocation from Government to the HSE was sufficient [Exhibit KR/30 - INQ000250948].

49. One-off funding in a pandemic does not work. A regulator cannot, suddenly, transform its workforce. The HSE received just £123 million from government in 2019/20, compared to £231 million in 2009/10. Lower funding means fewer inspections: over the same period, the number of workplaces investigated by a safety inspector fell by 70% [Exhibit KR/31 - INQ000250949]. Accordingly, much of the spot-check work during the pandemic was outsourced to two debt-collection companies with no work safety track record. Engage Services (part of Marston Holdings) and CDER Group were awarded contracts by HSE worth a combined £7m to carry out spot checks on behalf of the regulator and they undertook over 80 per cent of all 'HSE' Covid visits. Prospect (the union representing HSE inspectors) reported that the vast majority of proactive site visits conducted by the HSE in response to Covid-19 were carried out by these external contractors who carried out

52,000 visits compared to 12,000 carried out by trained and 'warrant' empowered HSE inspectors [Exhibit KR/32 - **INQ000119234** However, these "Tick Box, Spot Check" Contract Support Officers could not initiate enforcement action as they are not 'warranted' with enforcement powers like HSE Inspectors and have no statutory right of entry like HSE Inspectors. As such they rarely got beyond reception in many of their visits to workplaces, as Paul Nowak, General Secretary of the TUC, explained in his oral evidence to the Work and Pensions Committee in March 2021 [Exhibit **KR/32 - INQ000119234**

50. The significance of this is highlighted by the fact that when inspection and enforcement actually was carried out by the HSE, it could play an important part in ensuring the health and safety of employees in the health service. For example, the HSE served an enforcement notice on the East of England Ambulance Service NHS Trust on 22 December 2020 [Exhibit KR/33 - INQ000250950], having found a failure by the service to provide employees with powered respirators and training in their use. This enforcement notice was then complied with by 22 January 2021.

51. The inability of the HSE to respond to the pandemic was highlighted in the report of the Institute of Employment Rights, *HSE and Covid at work: a case of regulatory failure* (March 2021) [Exhibit **KR/28 - INQ000103571** The TUC also called for action in its report of 2 April 2021, *'A safe return to the workplace'* [Exhibit **KR/19 INQ000119269** It was observed that a year into the pandemic, and notwithstanding thousands of workplace outbreaks, not a single employer had been fined and prosecuted for putting their staff in danger. The report also noted that the HSE had still not amended its much-criticised designation of coronavirus as a "significant" rather than a "serious" workplace risk, which limited the enforcement options open to inspectors (see, further, below). Figures for inspections and enforcement notices fell to an all-time low during the pandemic, despite widespread workplace-linked cases of infection – between March 2020 and April 2021, just one in 218 workplaces had safety inspections [Exhibit KR/36 - INQ000250951].

52. There are equally significant problems in local authority health and safety enforcement in the workplace. The Financial Times reported in May 2020 that *"the number of full-time equivalent local authority health and safety inspectors has halved since 2010 to just 480"* and that more than 140 local authorities employ fewer than one full-time equivalent inspector [Exhibit KR/37 - INQ000192265]. The de-funding of these enforcement teams has also limited the ability of the remaining local authority officers to engage with stakeholders including trade unions. As a result, our member unions found it consistently difficult to work effectively with local government enforcement.

The national HSE Covid-19 spot check inspection programme

53. Between December 2020 and January 2021, HSE inspected 17 acute hospitals, in 13 NHS Trusts in England and 2 NHS Health Boards in Scotland and Wales as part of the national HSE Covid-19 spot check inspection programme. The inspections were led by an HSE Occupational Health Inspector. Each inspection focussed on 7 key areas to assess the arrangements in place to manage risk arising from Covid-19, along with other matters of evident health and safety concern. The 7 key areas were: management arrangements; risk assessments; PPE; social distancing; hygiene and cleaning regimes; ventilation; and dealing with suspected cases [Exhibit KR/38 - **INQ000323772**

54. Of the 17 hospitals inspected, 5 were highly compliant, 4 were given advice and 8 required letters to be sent formally requiring remedial action to be taken. All 8 contravened health and safety law in relation to risk assessments and social distancing. Specifically, risk assessments were not carried out for all areas and did not assess all the issues required, such as ventilation requirements and maximum occupancy. Risk assessments were also not being reviewed after lockdowns, outbreaks or when guidance changed, and staff had not received training as to how to carry out risk assessments. Meanwhile, surgical masks were being worn as a control measure in lieu of social distancing arrangements and the hospitals had not ensured that facilities, such as changing areas, locker rooms, toilets and rest areas enabled adequate social distancing.

Enforcement Management Model (EMM)

55. A further area of concern for the TUC and its member unions was the reclassification of Covid-19 as a "significant" as opposed to "serious" workplace risk in the HSE's Enforcement Management Model (EMM). The issues in question were set out in a briefing to the TUC Executive Council and HSE Senior Management on 29 June 2021 [Exhibit KR/39 - INQ000119174].

56. In February 2021, it was revealed that the HSE had downgrade its classification of Covid-19 in its EMM, which is the framework used to assess workplace risks. The TUC, members of the HSE board, and Prospect's branch within the HSE raised concerns privately and publicly. The classification, to a degree, determines what level of enforcement action the HSE will take when employers fail to implement Covid control measures. Specifically, inspectors generally do not issue prohibition notices to employers for breach in relation to a risk classified as only 'significant'.

57. The TUC had two key concerns with the downgrading of its risk classification of Covid-19.

58. First, is the way the Model has based risk on how Covid affects people of 'working age' (i.e. up to the age of 64), thus excluding the large number of workers over that age, and for whom the consequences of contracting disease may be the most serious. According to the review, "*80% of those of working age who test positive for COVID-19 are either asymptomatic or recover fully within 5 weeks or less*", and "*the working age population has a much lower death rate than those aged over 65 years*". For the purposes of the review, the HSE defined working age as 20-64 in order not to include those who may be in education or retired. However, since the Default Retirement Age was scrapped in 2011, the number of over-65s in work has grown. As of last year, 40% of men and 30% of women over the age of 65 were still working, a total of 900,000 workers. What is more, an ONS study into older workers in the pandemic reveals that older workers are less likely to have worked from home. Essentially, the HSE has removed this section of older workers from its risk analysis, meaning the justification for the 'significant' categorisation is in part based only on those workers for whom 'serious' outcomes (i.e. hospitalisation and fatality) is less likely.

59. This points to the analysis used in the EMM being a decade out of date. The HSE exists to protect the health and safety of all workers, not just those up to the age of 64.

60. Secondly, its comparison with categorisations of other coronaviruses was flawed in its approach. Other coronaviruses, including SARS (severe acute respiratory syndrome) and MERS (Middle East Respiratory Syndrome), have previously been categorised as 'serious' by HSE's Advisory Committee on Dangerous Pathogens (ACDP).

61. While the three coronaviruses have similarities, their effect on the population differs. Both MERS and SARS have significantly higher case fatality rates than COVID-19 (30 per cent and 10 per cent respectively). However, Covid-19 is more infectious, spreading more easily among people, leading to greater case numbers. Hence, despite the lower case fatality rate, the overall number of deaths from Covid-19 far outweighs that from SARS or MERS. Neither SARS not MERS have the severe related chronic diseases (i.e. Long Covid) associated with Covid-19.

62. The TUC wrote to the HSE on 9 February 2021, expressing its concern over the reclassification of Covid-19 in the HSE's EMM (although I have been unable to locate a copy of the letter). The TUC also wrote to Therese Coffey, then Secretary of State for the Department of Work and Pensions (the sponsoring department for the HSE), on 19 February 2021, expressing its concerns and seeking Ms Coffey's views on how the DWP could work with the HSE to review the decision [Exhibit KR/40 - INQ000250953]. The HSE

replied on 22 February 2021 [Exhibit KR/41 - INQ000250954], explaining that classifying Covid-19 as a significant risk as opposed to a serious risk was appropriate given the specific meaning within the EMM. The DWP replied on 2 March 2021, simply referring to Ms Albon's 22 February response [Exhibit KR/42 - INQ000250955]. I also put on record the TUC's concerns at an HSE Board Meeting on 25 May 2021 [Exhibit KR/43 - INQ000250956]. I note this document has had redactions applied to it – I am not aware of who applied these redactions and I am not in possession of an unredacted version.

63. The HSE did eventually conduct a review of their classification of Covid-19 within its EMM, which resulted in no change [Exhibit KR/44 - INQ000250957]. Frances O'Grady challenged the HSE in a letter dated 30 July 2021 [Exhibit KR/45 - INQ000250958], stating:

"*It appears that the current calculation is based solely on the risk posed to 18–65-year-olds. Of course, we know that Covid-19 is one health risk which presents a particular risk to people over the age of 65. I appreciate the EMM's working definition of 'working age' may well be an historical one, predating The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011. Would HSE reconsider this in the future to account for the approximately 900,000 over 65s among the working population?*"

64. To this date, we are not aware of the HSE having done so.

Under-reporting of occupational exposure to Covid-19

65. There was significant under-reporting of occupational exposure to Covid-19 under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) and, as a result, potentially thousands of deaths went unrecorded and, as a result, under-investigated. HSE acknowledged this as an issue early in the pandemic, telling the Work and Pensions Committee in May 2020 that there was significant under-reporting in NHS settings in particular and that they were concerned that they were not getting the numbers they would expect [Exhibit KR/46 **INQ000300537**

66. This issue was considered in the TUC's 23 May 2021 report *RIDDOR, Covid and under-reporting* [Exhibit KR/47 - INQ000119177], in the TUC Executive Committee briefing paper of 29 June 2021 [Exhibit **KR/39** - INQ000119174] and again in the TUC's 15 August 2022 report, '*Covid-19: an occupational disease'* [Exhibit KR/49 - INQ000119175].

67. TUC Freedom of Information requests to Public Health England (PHE) revealed that between April 2020 and January 2021 there were 4,523 outbreaks reported in

'workplaces'. This categorisation excluded infections in care homes, hospitals, education providers, prisons and food outlets; all of which have reported high numbers of infections and outbreaks during this period.

68. The TUC's report on 'Covid and under-reporting' demonstrates that available data shows a correlation between certain occupations and Covid-19 exposure and fatality. The ONS explain why there is such a difference in infection and fatality rates within certain occupations – because some are less able to work from home, or to socially distance while at work.

69. The TUC also identified how the SAGE Environmental Modelling Group's (EMG) key findings show links between certain jobs and infection and mortality rates. A paper in February 2021 found that *"occupations which involve a higher degree of physical proximity to others over longer periods of time"* report higher Covid-19 cases.

70. Despite data showing significant numbers of occupations with a higher-than-average death rate, only around 30% of HSE reports of occupational disease involving Covid-19 are from workplaces not classified as health and social care. For example, while the ONS data shows 608 Covid deaths among transport workers between 9 March and 28 December 2020, only 10 notifications were made via RIDDOR in the longer period of 10 April 2020 to 17 April 20216 – a rate of just 1.6%.

Industry	**Recorded deaths – ONS (9 March – 28 December 2020)**	**Reported deaths – RIDDOR (10 April 2020 – 17 April 2021)**
Health and Social Care	886	271
Transport and storage / drivers and operatives	608	10
Construction	305	4
Education	139	9

71. In the year between 10 April 2020 and 10 April 2021, 126,723 deaths in England and Wales were registered as involving Covid-19. Of these, 14,171 were adults between the ages of 15 and 64. In Scotland, there were 9,676 deaths where Covid-19 was recorded on the death certificate within the same period, with 1,092 between the ages of 15 and 64. This amounts to 11% of all Covid fatalities being among this age group in England and

Wales and Scotland. It is expected the number of fatalities among those in-work is higher, given the proportion of over 65s who work is significant. Despite the total of 15,263 registered 15–64-year-old adult deaths from Covid-19 in the year April 2020 to April 2021; just 387 Covid fatalities were reported under RIDDOR as work-related in the same period, according to HSE's database. The HSE confirmed that, of those, 216 deaths were being investigated by the body.

Covid-19 deaths (10 April 2020 – 10 April 2021)	**Total**
Overall	126,723
Working-age	15,263
Reported to RIDDOR	387
Investigated by HSE	216

72. While there are numerous ways people can become exposed to Covid-19; either by travelling to work, socialising or otherwise, it is not unreasonable to expect some of these instances were a result of exposure in the workplace. Certainly, it is likely that more than 2.5% of these deaths (as the RIDDOR data suggests), were the result of occupational exposure, particularly considering the high number of breaches of safety protocols identified in research and polling (such as our Safety Reps survey referred to previously).

73. Early guidance from the HSE required employers to report cases where there was reasonable evidence to suggest Covid infection was caused by occupational exposure. There were 93,000 cases reported to enforcing authorities in 2020/21 which employers believed may have been caused by exposure at work. Risk of occupational exposure in particular sectors was higher, for example, 64% of all reports made by employers were from the health and social care sector.

74. However, since 1 April 2022, the only cases of Covid-19 reportable to HSE must be due to either deliberately working with the virus (for example in a laboratory) or being incidentally exposed to the virus from working in environments where people are known to have Covid-19 (such as in health and social care). Cases due to general transmission (either worker-to-worker, or from contact with members of the public) are no longer reportable. This coincided with the Government promising, in its 'Living With Covid' guidance [Exhibit KR/50 - **INQ000086652** to remove the health and safety requirement for every employer to explicitly consider Covid-19 in their risk assessments. The TUC

wrote to Kwasi Kwarteng, then Secretary of State for BEIS, on 8 March 2022, raising concerns about how this would contradict employers' existing duties to assess all risks to employees' and other persons' health and safety, and to consult the workforce on changes to safety management [Exhibit KR/51 - INQ000250961]. We pointed out that any risk to health must be incorporated in a risk assessment and employers should also be acknowledging the risk of Long Covid. We requested clarification before the guidance was due to take effect on 1 April 2022, but it was published unchanged and the health and safety requirement to consider Covid-19 in risk assessments was removed.

75. A case of occupational exposure of Covid-19 being reported to the authority does not necessarily mean anything materially for the worker but, importantly, it allows regulators to see which sectors are experiencing high levels of infection and may require regulatory intervention. It is, therefore, an important issue and one that certainly presented itself in the healthcare system.

76. A Freedom of Information request by The Pharmaceutical Journal revealed that 173 NHS Trusts in England submitted at least 6,007 RIDDOR reports relating to Covid-19 to HSE between 30 January 2020 and 11 March 2022. 89 reports from 3 Trusts were not investigated by HSE on the basis that they could not provide evidence of a direct link between exposure to Covid-19 and the workplace – these included 10 deaths of staff from Covid-19 [Exhibit KR/52 - INQ000250962].

77. Under-reporting of Covid infections and deaths has been continuously raised by health unions in tripartite meetings with NHS employers and HSE. For example, at a 9 June 2020 meeting of the SPF Engagement Group, unions raised concerns with Philip White of the HSE regarding revised RIDDOR guidance and employers interpreting the guidance with a higher threshold, meaning some cases of workers involved in the care of Covid-19 patients were no longer reportable [Exhibit **KR/8 INQ000119028** Concerns were raised again at the 8 December 2020 SPF Engagement Group meeting, with unions highlighting how employers were reluctant to report through RIDDOR fears over liability [Exhibit **KR/11** INQ000119041]. DHSC confirmed that they were meeting with the HSE to understand how the process was working and that the intention was for notifications to happen "*in the right way*".

78. The issue persisted. Advice issued to employers on RIDDOR reporting has resulted in instances of cases being considered valid only where a mask has become broken or pulled off by a patient. 886 health and social care workers were recorded as dying with Covid-19 by the end of 2020 and yet many of these deaths were not recorded under RIDDOR

[Exhibit KR/47 - INQ000119177]. A review by medical examiners in England of the deaths of 474 health and social care workers from Covid-19 found reason to suspect that the person had been exposed to Covid-19 at work in 357 of these [Exhibit KR/55 - INQ000409941].

Failure to classify Covid-19 as an occupational disease

79. The TUC was also concerned by the failure to classify Covid-19 as an occupational disease.

80. The case for prescribing Covid-19 was set out in the TUC report *Covid-19: an occupational disease* from 15 August 2022 [Exhibit KR/49 - INQ000119175]. In our report, we showed that for many workers, carrying out their job puts them at greater risk of exposure to Covid-19, a virus which can cause ill-health effects for more than a year, and has been fatal for more than 15,000 people of working age in Britain. There is evidence from large workplace outbreaks that working at close proximity to others increases the risk of infection.

81. Exposure to Covid-19 at work risks long-term ill-health effects. One in 10 people with Covid-19 continue to experience symptoms beyond 12 weeks, posing a significant risk to their employment status and earning potential. Common symptoms of Long Covid include extreme tiredness, shortness of breath and memory problems. Experience of these symptoms can cause workers to require extended periods of sickness absence from work, or risk inability to perform job roles adequately or safely. Research by the TUC found that 20% of workers with Long Covid had seen a negative impact on their job security, including having to leave their job.

82. The TUC has previously called for the recognition of Long Covid as a disability, in order to protect workers under existing equality legislation. This is separate to a call for prescription as an occupational disease, which would offer workers in particular jobs additional support and compensation.

83. At least 20,000 people die prematurely every year because of occupational disease. The most common of these is asbestos-related disease, associated with a number of occupations including construction and firefighting. There are more than 70 prescribed 'occupational' diseases known to be a risk from certain jobs. These diseases arise as a result of employment requiring close contact with a hazardous substance or circumstance. A 'prescribed' disease is one for which benefits are payable. This means, on account of a person's diagnoses being linked to their job, they are able to claim financial support, through the Industrial Injuries Scheme. This provides benefits to employees who were

employed earners at the time of a work-related accident or when they contracted a prescribed disease.

84. The Social Security Contributions & Benefits Act 1992 allows ministers to prescribe a disease if they are satisfied that it can be caused by work and that such a link can be made with "reasonable certainty" in the individual claimant's circumstances. This means it must be "more likely than not" that the disease is due to a person's work.

85. The government is guided in this by scientific advice from the Industrial Injuries Advisory Council (IIAC). IIAC is an independent scientific advisory body that looks at industrial injuries benefit and how it is administered. IIAC considers published independent medical and scientific research and makes recommendations to the Secretary of State to update the list of diseases and the occupations that cause them for which Industrial Injuries Disablement Benefit can be paid. The Council's role is to advise and make recommendations, but ultimately it is the Secretary of State for Work and Pensions who takes the final decision about whether to implement a recommendation.

86. The recognition of Covid-19 as an occupational disease would formally recognise the higher risk in certain jobs and signify a need for greater support for affected workers and patients. IIAC has concluded *"that there is a clear association between several occupations and increased risk of death from COVID-19"* [Exhibit KR/56 - INQ000119176].

87. IIAC seeks evidence that it is 'more likely than not' that the disease is due to work. As such, IIAC is currently seeking and considering evidence that the "relative risk" (RR) for Covid in particular jobs is more than 2 (as the minimum standard for prescribing a disease). An RR above 2 means that people who work in a particular job are more than twice as likely to develop a particular disease as members of the general public who do not work in that type of job. In considering Covid data, the IIAC report from March 2021 states: *"Analyses of UK death certificates between March and December 2020 show more than a two-fold risk in several occupations especially for males, including social care, nursing, bus and taxi driving, food processing, retail work, local and national administration and security."* [Exhibit KR/56 - INQ000119176].

88. Many European countries have already classified Covid as an occupational disease, as evidenced by a report compiled by the International Labour Organization, referenced at page 5 of the TUC's '*Covid-19: An Occupational Disease*' report [Exhibit KR/49 - INQ000119175], which detailed schemes by more than 50 states. The TUC believes the

Government must now act to classify Covid-19 as an occupational disease and support workers suffering Covid ill-health effects as a result of their job.

D. CONCLUSIONS AND LESSONS LEARNED

89. The TUC has identified a number of lessons learned from the Covid-19 pandemic, many of which are set out in its June 2023 report, 'Austerity and the pandemic' [Exhibit KR/31 - INQ000250949]. I draw on those here.

Health and safety regulation and enforcement

90. It is clear from the experience of the Covid-19 pandemic that capacity for health and safety regulation and enforcement was inadequate. An under-resourced HSE and stretched local authorities saw workplace inspections fall dramatically over the decade leading up to the start of 2020. Figures for inspections and enforcement notices then fell to an all-time low during the pandemic. This allowed some employers to breach Covid safety requirements with little fear of being caught or punished. Those inspections that did take place in hospitals during the pandemic revealed widespread contraventions of health and safety law in relation to risk assessments and social distancing.

91. To be resilient and prepared for a future pandemic, the UK's health and safety regulators need reinvestment and rebuilding. Otherwise working people's health and safety will be left at unacceptable risk, and workplaces could be centres of transmission affecting the wider community.

92. Long-term, adequate funding of health and safety regulators is required if we are to uphold health and safety laws, and ensure employers who put working people and the public at risk face the necessary consequences. Health and safety inspectors in HSE and local authorities must have adequate capacity to carry out their roles, with the necessary independence to pursue employers with relevant enforcement measures. This must include a recruitment drive where capacity concerns are identified owing to an aging workforce or a long-term freeze in recruitment.

93. There needs to be a realignment of health and safety regulation, to ensure independence, and guarantee enforcement activities are in line with public and stakeholder expectations, along with regulatory clarity to ensure there is a clear remit for which agencies are

responsible for which types of workplaces, with a greater level of awareness among employers, the public and stakeholders.

Clear advice and guidance

94. The pandemic saw consistent under-reporting of occupational exposure to Covid-19 under RIDDOR. Whilst perhaps more profound in other sectors, the issue persisted in the healthcare system. This had the potential to affect the ability of regulators to see which sectors are experiencing high levels of infection and may require regulatory intervention. Going forward, there needs to be clear advice and guidance, developed through meaningful engagement between Government, the HSE/the relevant regulator and unions, to ensure that employers present an accurate picture of the risks being faced by workers and, ultimately, the potential impact on the wider community.

Long Covid and Covid-19 as an occupational disease

95. There is a potentially dangerous narrative developing that Covid-19 is behind us. However, workers in many sectors, including healthcare workers, continue to be exposed to the virus by the nature of their work. A significant number suffer from Long Covid. The Government must now act to classify Covid-19 as an occupational disease and support workers suffering Covid ill-health effects as a result of their job.

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.

Signed: **Personal Data**

Kevin Rowan

Dated: 23 November 2023