

Witness Name:

Statement No.:

Exhibits:

Dated:

## **UK COVID-INQUIRY**

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### **WITNESS STATEMENT OF ROZANNE FOYER, STUC**

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I, Rozanne Foyer, will say as follows: -

1. I am Rozanne Foyer, General Secretary of the Scottish Trades Union Congress (STUC), my office address is STUC, 8 Landressey Street, Glasgow.
2. I make this statement on behalf of the STUC in response to a letter dated 8 June 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
3. This statement is made for the purposes of Module 3 of the Inquiry which is examining the impact and response of the healthcare systems across the UK during the pandemic.
4. The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC is the national lobbying, campaigning, and coordinating body for trade unions in Scotland and represents over 545,000 trade union members via their affiliated trade unions.
5. Workers across Scotland faced huge challenges both personally and in their working lives as the pandemic escalated and unprecedented action was taken to restrict individuals' movements, introduce lockdowns and close large parts of the economy. Workers in essential services including health and social care were called upon to work in the frontline, often putting themselves and their immediate

families at risk. This resulted in instances of the tragic deaths of health and social care workers, we ask that these workers and their families are not forgotten throughout this inquiry, and we pay tribute to their sacrifice.

### **The Structure and role of the STUC**

6. The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC represents over 545,000 trade union members in Scotland from 42 affiliated trade unions and 20 trade union councils and is governed by the STUC General Council who are elected annually at STUC Congress.
  
7. The STUC is the national lobbying, campaigning, and coordinating body for trade unions in Scotland. The constituted purpose of the STUC is to co-ordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland reflecting the aspirations of trade unionists as workers and citizens. This is supplemented by the STUC's Vision and Mission:
  - a) to build a strong, influential and globally aware trade union movement that champions equalities & delivers a fundamental shift in wealth, wellbeing and power towards workers, our families and communities in Scotland & beyond;
  - b) to support our affiliates to educate, agitate, organise and build a movement for change in our workplaces and communities.
  
8. The STUC focuses campaigns and lobbying on all devolved matters including education, health and social care, local government, and transport.
  
9. The STUC maintains a formal relationship with the TUC, Wales TUC and Irish Congress of Trade Unions through the Council of the Isles. The STUC works in partnership with the TUC on non-devolved areas of policy. The STUC also lobbies and campaigns directly with Westminster on UK non-devolved policy issues when deemed necessary or appropriate by our affiliates.

10. The STUC was established in 1897 and is a key civic organisation in Scotland. Successive Scottish Government's since devolution in 1999 have actively engaged with the STUC, albeit taking a variety of approaches. The current Scottish Government has a stated aim for Scotland to become a leading Fair Work nation by 2025 [RF/56 - INQ000215610]. This framework identifies the value placed on trade unions as the effective voice of workers in Scotland and provided the backdrop to initial joint responses to the pandemic by Scottish Government and the STUC.
11. The STUC represents members in health and social care through our affiliated trade unions as outlined in the attached index of health and social care union [RF/72 – INQ000376414]. The STUC co-ordinates health and social care unions in relation to their engagement with Scottish Government including relevant Cabinet Secretaries, Ministers and officials. Any engagement with NHS Scotland, health boards or other related agencies and organisations would be taken forward by unions directly. Health and social care unions worked with the Scottish Terms and Conditions Committee (STAC) to engage with employers on staffing matters during the pandemic. [RF/73 – INQ000389243] STAC is a partnership organisation which negotiates terms and conditions for NHS Scotland staff. The group has NHS employer and trade union representation, the STUC is not involved in this industrial bargaining partnership.
12. This statement reflects views from various health trade unions noted when quoted directly.
13. The STUC met with Scottish Government Cabinet Secretaries, Ministers and civil servants from the onset of the pandemic, firstly meeting with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture on 5 March 2020. Regular meetings were then convened with the Cabinet Secretary, later with Ministers, and representatives of our membership including unions representing health and social care workers. These meetings became known as 'Covid Group meetings' and when relevant included Scottish Government Health and Social Care Directorate and Public Health Scotland. The STUC raised concerns and made representations to Scottish Government on a wide range of issues during the pandemic, those related

to health and social care are included in this statement along with examples from meetings of representations made [RF/74 – INQ000376401].

14. In addition, our members were involved in industrial sector meetings including Workforce Leadership Group which consisted of NHS employers, trade unions, professional organisations and relevant Scottish Government departments related to health and social care. Note, the STUC was not directly represented on this group.

### **Healthcare system in Scotland before the Covid-19 pandemic**

15. Scotland's pandemic planning, preparedness, and resilience at the start of the Covid-19 pandemic was significantly impacted by years of underfunding across Scotland's public services. Since 2010 the UK Government had adopted an austerity programme in theory to cut government debt. This programme resulted in cuts to government budgets, freezing or cutting benefits, increasing selected taxes, and holding down public sector pay. The resulting reduction in budgets and staffing levels across the public sector in Scotland created conditions which hampered pandemic responses in health and social care.
16. Scottish Government integrated health and social care in 2016 and while NHS Scotland staffing levels have not suffered similar cuts as local authorities and other public sector agencies, we recognise that the health sector does not stand alone within the public sector. Intense pressure from staffing levels and fragmented service provision in social care and local authorities directly impact the performance of the health service in Scotland.
17. Trade unions raised issues with the STUC before the pandemic in relation to staff vacancy rates within NHS Scotland, including recruitment and retention rates, and NHS capacity. These issues were raised at STUC Congress in the form of motions to Congress:

- a) 2019, concern on staff supply and vacancy rates;

- b) 2019 impact of Brexit on recruitment and retention of doctors, midwifery and the wider NHS workforce;
- c) 2018, concerns over level of vacancies for NHS consultants;
- d) 2017, the need for a holistic approach to workforce planning and safe staffing levels

### **Impact of the Covid-19 pandemic**

18. Increased levels of stress and anxiety and a deterioration in workers mental health was commonly reported to the STUC from trade unions across all sectors. This applied to key workers who were often put at significant risks to provide health and social care services.

19. A Unite Scotland survey of NHS members reported in August 2020 stated that the workforce was at breaking point:

*“Around four out of every five NHS worker is working beyond their contracted hours, and experiencing acute staff shortages. The scale of the problem is unsustainable and the workforce is at breaking point”.* [RF/67 – INQ000376413]

20. GMB Scotland reported on a survey of members in social care in April 2020: RF/67 - INQ000376413] where 80% of members had not had any contact from their employer about mental health support and 86% of members thought that not enough support was in place to help cope with mental health during the crisis so far:

*“For many months the mental health concerns of members were ignored as they dealt with serious risk to their own and their families’ health.”*

21. The Pharmacists’ Defence Association (PDA) reported in their survey of members as outlined in their submission to the Scottish Covid-19 Inquiry dated August 2023 [RF/61 – INQ000376403]:

*“Surveys of pharmacists’ health and wellbeing undertaken during the Covid-19 pandemic showed high levels of burnout of up to 89% amongst pharmacists and their teams, significantly higher than pre-pandemic.”*

22. Unison Scotland reported in June 2020 on “Underlying Inequalities & Infection Risk - Black Workers & Covid19” [RF/59 INQ000215615] The report noted the stark reality facing black workers:

*“Black workers are over four times more likely to die from Covid19 than white people. Of the first 100 deaths in frontline health and care jobs around 70% were Black, Asian or minority ethnic workers.”*

23. The report summarised Unison Scotland survey results noting black workers were:

- a) *“more fearful of infection,*
- b) *more concerned about PPE access,*
- c) *more fearful of onward infection to family,*
- d) *less likely to get sick pay,*
- e) *more fearful of losing their job,*
- f) *more worried about reduced income and*
- g) *more concerned about meeting living costs”*

24. The report concluded that “bad jobs kill and Fair Work saves lives”. Unison Scotland provided a specific risk assessment tool for BAME workers”

25. The STUC lobbied the Scottish Government and pressed for employers to provide financial, well-being, mental health and other support to healthcare staff during the pandemic. We were successful in agreeing the Coronavirus Fair Work statement with Scottish Government [RF/6 – INQ000107242] that offered financial protection for public sector workers including health and social care:

*“No worker should be financially penalised for following medical advice. Any absence relating to COVID-19 should not affect future sick pay entitlement or other entitlements like holiday or accrued time”.*

26. Increased absence of health and social care staff has impacted the physical and mental wellbeing of staff with all health care unions reporting this issue both during the pandemic and ongoing as staff struggle to cover workloads. Increased absence was a key concern during the pandemic for health and social care workers. Workers across NHS Scotland and social care were absent due to following self-isolation guidance, contracting Covid-19, poor mental health and burnout creating increased workloads and pressure on those attending work.

27. The Royal College of Midwives as outlined in their Impact Summary for the Scottish Covid-19 Inquiry, dated 05 July 2023 [RF/63 – INQ000376405] noted a range of issues during the pandemic including PPE, Shielding and Social Distancing which contributed to members’ mental health:

*“All of these issues placed our members at increased risk of exposure and high stress and anxiety, likely to have increased overall absence and exacerbate the cycle of stress and absence across the workforce and overall burnout.”*

28. The Royal College of Podiatry [RF/62 – INQ000376404] noted the cumulation of issues related to the pandemic took a significant impact on members as outlined in their impact Summary for the Scottish Covid-19 Inquiry [RF/62 – INQ000376404]:

*“Members were exhausted both physically and mentally”*

29. STUC members reported the impact this also had on workers, patient care and patient safety as outlined in the Impact Summary by GMB for the Scottish Covid-19 Inquiry [RF/65 – INQ000376410]:

*“Inadequately trained nurses asked to work in Intensive Care Units and deal with critically ill dying patients. This caused mental trauma and stress resulting in PTSD for some staff”*

30. The Royal College of Midwives reported in their Impact Summary for the Scottish Covid-19 Inquiry, dated 05 July 2023 [RF/63 – INQ000376405] on the shift to community provision of maternity services to reduce hospital admissions and contact with health care staff. This placed further burden on staff and

*“impacted on the quality of care as well as the health and wellbeing of staff and families”*

31. The Pharmacists Defence Association (PDA) noted in their submission to the Scottish Covid-19 Inquiry, dated August 2023 [RF/61 – INQ000376403] alarming reports from community pharmacists where the risk of no pharmacist in attendance was not balanced against workers health and safety:

*“...pharmacists testing positive for Covid-19 and then being pressurised by management to stay at their post until their employer could arrange for another pharmacist to come and complete their shift.”*

*“These companies attempted to run some pharmacies with no pharmacist present at all, with one pharmacist at the end of a phone supervising activity, and magnifying the biggest risk of all to patients which is a pharmacy with no pharmacist”*

32. Unite Scotland reported in their impact summary for the Scottish Covid-19 Inquiry, dated August 2023 [RF/66 – INQ000376407] the impact on health care provision:

*“NHS ward closures in some areas due to staff shortage relating to Covid related absence”.*



33. Recruitment and retention levels have been negatively impacted by Covid 19 as evidenced by the Scottish Government's announcement to invest an additional £15 million to address staffing shortages in the NHS [RF/68 – INQ000376412]

34. Recruitment of staff was impacted during the pandemic as health care students across several areas were unable to qualify due to delays in examinations or mandatory clinical placements which were cancelled or postponed.

35. The Royal College of Midwives (RCM) noted in their Impact Summary for the Scottish Covid-19 Inquiry, dated 05 July 2023 [RF/63 – INQ000376405]:

*“Many of our student members were impacted by shielding and the restrictions on placements, resulting in them being unable to achieve the mandatory clinical experience within the timeframe of their course. This resulted in the requirement to not only extend the timeframe of their course by several months, but they also experienced difficulties in seeking that additional placement time, due to the cap on student numbers on placements alongside the resulted increase in students. This caused high levels of stress and financial detriment due to the delays in qualifying and beginning full employment.”*

36. Unions reported members leaving health and social care during and following the pandemic across all areas.

37. The Pharmacists Defense Association (PDA) reported in their submission to the Scottish Covid-19 Inquiry, dated August 2023 [RF/61 – INQ000376403]:

*“Many pharmacists reported a decline in the number employed in their wider teams as many support staff left”*

38. The Royal College of Midwives (RCM) noted in their Impact Summary for the Scottish Covid-19 Inquiry, dated 05 July 2023 [RF/63 – INQ000376405]:

*“It has been observed and reported that many staff who were able to but not necessarily planning to, took a decision to retire as a consequence of their experiences during the pandemic.”*

39. A Unison Scotland survey of social care workers in 2021 [RF/69 – INQ000376408] reported in “The Burnout Pandemic” that sickness absence as the main reason for staffing shortages which in turn were caused by stress, burnout, covid and long covid. A staggering 96% of staff who took part in the survey reported staffing shortages.
40. The STUC did not provide any financial, well-being, mental health or other support directly to healthcare staff during the pandemic. The Fair Work First Coronavirus Statement [RF/6 – INQ000107242] noted that staff should not face any financial detriment due to covid related absence. The STUC agreed this statement with Scottish Government and other civil organisations, the statement was issued by the Scottish Government. The statement was shared by the STUC with our healthcare unions to then promote to their members working in healthcare.
41. It is estimated that over 175,000 people in Scotland have reported symptoms of Long Covid according to the report Long Covid – Where are we now [RF/70 – INQ000376411]. Social care workers make up 5.72% of those with Long Covid and 4.45% are health care workers. While these percentages are UK statistics we would expect them to reflect similar totals for Scotland. The Scottish Government has pledged £10 million to support NHS boards across Scotland offer services for patients with Long Covid.
42. The STUC has worked with a volunteer-led charity, Long Covid Scotland, to raise awareness of the condition, highlight the complexities of diagnosis and support workplace representatives to support members who are suffering from Long Covid. Long Covid Scotland have taken part in panels and given presentations to STUC conferences and events. Representatives of the STUC Disabled Workers Committee have attended the Scottish Parliament Cross Party Group on Long Covid. We have promoted the TUC’s research and reports on Long Covid and

hosted equality representative and equality officer network sessions on the topic of Long Covid.

43. Trade unions have a variety of support in place for members with Long Covid ranging from collective negotiation on workplace support policies and individual support to negotiate reasonable adjustments and / or plans for return to work.

### **Infection Prevention and Control**

44. Unite Scotland raised concerns around infection protection and control stating in their Impact Summary for the Scottish Covid-19 Inquiry dated August 2023 RF/66 – INQ000376407]:

*“The Definition of Aerosol Generated Procedure (AGP) became an issue across the sector, eg. If you had to provide emergency CPR, chest compressions could produce aerosols, however it was not classed as an AGP therefore you would not automatically be provided with an FFP3 mask. This was particularly prevalent within the Ambulance Service and specific wards. This caused anxiety and concern with staff. When staff requested an FFP3 mask it was refused, with the reason being provided that CPR was not classed as an AGP, however it produced aerosol. Staff wanted to feel safe and being refused appropriate PPE, caused fear but also resentment towards managers.”*

45. GMB Scotland reported concerns of staff working in NHS Scotland who were being asked to clean contaminated rooms without proper PPE and Scottish Ambulance Service workers had no cleaning materials provided to clean down vehicles after each patient as outlined in their [Impact Summary for the Scottish Covid-19 Inquiry](#) [RF/65 – INQ000376410]

46. The Chartered Society of Physiotherapy (CSP) noted concern amongst members over the definition of AGPs stating in their Impact Summary for the Scottish Covid-19 Inquiry [RF/60 – INQ000376402]:

*“the international consensus was that transmission of the virus was airborne rather than through droplets and contact as initially thought, was not fully reflected in national infection, prevention and control (IPC) guidance”. The CSP concluded that IPC guidance failed to recognise many physiotherapy interventions as generating aerosols”*

47. Some unions reported concerns around workplace health and safety as some services moved away from usual workplaces to service provision in patients' homes, e.g., maternity and podiatry, where there were no risk assessments for workers.
48. The Pharmacists Defence Association (PDA) also received reports from pharmacists providing evidence of failure by pharmacy owners to carry out risk assessments of premises or of staff, some owners were slow to put into place physical constraints of entry to pharmacies, or to enable social distancing or that patients and carers wore face coverings as outlined in their submission to the Scottish Covid-19 Inquiry dated August 2023 [RF/61 – INQ000376403].
49. In April 2022 one pharmacy chain advised their Scottish staff that they could choose to work even if they had Covid-19, in total contravention of the guidance issued by the Scottish government. Only after the Pharmacists Defence Association (PDA) raised this, and a question was asked in the Scottish Parliament was this resolved as outlined further in the PDA's submission to the Scottish Covid-19 Inquiry dated August 2023 [RF/61 – INQ000376403]
50. When workers raised serious concerns around workplace safety and the failure of guidance to fully protect them, or their employer to implement the guidance unions advised members to use health and safety law instead. In these instances, unions advised members to utilise the protection afforded to workers under the Employment Rights Act Section 44 which allows them to take appropriate steps to protect themselves from serious or imminent danger. In one example, Unite Scotland advised members in the Scottish Ambulance Service to use Section 44 of the Act if no suitable PPE was issued as outlined in their impact summary for the Scottish Covid-19 Inquiry dated August 2023 [RF/66 – INQ000376407]

51. We were aware of reports from trade unions at an early stage of the pandemic that staff in a variety of health and social care settings were not receiving PPE. This was raised with the Scottish Government frequently in meetings including with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture, on 24 March 2020, when we made her aware that ambulance workers were about to run out of masks. Meetings with the Scottish Government and unions representing health and social care workers took place separately from Covid Group meetings. Issues were progressed in detail at the Health and Social Care meetings with updates provided to the Covid Group meetings or issues escalated if still outstanding.
52. We conducted an online survey in the last week of March 2020 and reported that over half of respondents required to work didn't feel safe with 42% saying they did not have access to adequate PPE. [RF/19 - INQ000107208]
53. We received a copy of the draft Scottish Government PPE Action Plan on 29 September 2020 asking for feedback and comments to be returned by 30 September 2020. The plan contained a note of the roles and responsibilities of employers, the action being taken to support social care staff and outlining plans for the period ahead. We collated responses from members of the Covid Group and responded on issues related to Fair Work and procurement of PPE.
54. Separate groups were set up by the Scottish Government to address issues related to PPE in social care and manufacturing and supply. Public lobbying included an open letter from GMB Scotland to Nicola Sturgeon, First Minister, about the lack of PPE in social care on 4<sup>th</sup> April 2020 outlined in their Impact Summary for the Scottish Covid-19 Inquiry [RF/65 – INQ000376410]
55. Trade union representatives were involved in these groups while the STUC was not directly represented. The Scottish Government set out to address the early issues with overall supply with a range of Scottish companies repurposing their manufacturing to supply PPE.

56. As part of a later STUC research project published in April 2021, “Who is winning from Covid” by Laurie MacFarlane and Christine Berry, the researchers outlined the Scottish manufacturing response to PPE supply and highlighted the lack of evidence around procurement and the enforcement of companies taking a “Fair Work First” approach. [RF/20 - INQ000107210]
57. The limited supply of PPE caused significant distress and anxiety to health and social care staff. All health and social care affiliates raised concerns on this issue and can evidence the difficulties it caused members. Concerns include workers being asked to re-use PPE, buy their own PPE, lack of PPE, inconsistent supply of PPE, out of date PPE, ill-fitting PPE, no options for safe disposal of PPE, managers or employers restricting use of PPE, employers demanding staff justify why they needed PPE, managers locking PPE away from workers, differing approaches for workers providing services in the community and Scottish Government statements not matching with the reality of workers experiences who were delivering health and social care. A sample of reports are noted.
58. Unison Scotland and GMB Scotland reported on out-of-date PPE being issued to health and social care staff. This included a GMB report of a whistle blowing complaint in the Scottish Ambulance Service where out of date PPE was issued with old expiry dates which had been covered up as outlined in the impact summary by GMB Scotland for the Scottish Covid-19 Inquiry [RF/65 – INQ000376410]
59. The RCM reported in their impact summary for the Scottish Covid-19 Inquiry date 05 July 2023 [RF/63 – INQ000376405]:

*“In particular FFP3 masks were reported to be ‘rationed’ with conflicting advice or guidance on the scenarios in which they should be used and issues with accessing or achieving appropriate fitting. It was felt that advice was often cost/supply driven as opposed to being based on the highest level of protection. Furthermore, there was reports of supplies not being in English, which left staff feeling less confident in using correctly.”*

60. The Pharmacists' Defence Association (PDA) as outlined in their submission to the Scottish Covid-19 Inquiry dated August 2023 [RF/61 - INQ000376403] reported inconsistent advice in community and hospital pharmacies, and differing advice for locum pharmacists:

*“There were also reports of locum pharmacists being instructed not to wear PPE they had sourced themselves, and in contrast there was other evidence of locum pharmacists being forbidden to use PPE provided to pharmacies and told to acquire their own.”*

61. Suitability and proper fitting of PPE masks was raised by the STUC at Covid Group meetings and by affiliates in various forums with the Scottish Government and employers. Unite Scotland noted that ill-fitting FFP3 masks would cause workers skin to flare up and bruise as outlined in their impact summary for the Scottish Covid-19 Inquiry dated August 2023 [RF/66 – INQ000376407]. The CSP noted that securing appropriate PPE was challenging as it was made for a default male body and face and this not the default health care worker as outlined in their impact summary for the Scottish Covid-19 Inquiry [RF/60 – INQ000376402].

62. Specific issues were raised by the Royal College of Midwives (RCM) around the provision of PPE in maternity services as outlined in their impact Summary for the Scottish Covid-19 Inquiry dated 05 July 2023 [RF/63 – INQ000376405]:

*“challenges with access to supplies of PPE, alongside the lack of clarity and guidance in relation to how to best protect themselves and others from the exposure and spread of a virus with such unknown impact, yet high level concern. It was immediately apparent that the high level of uncertainty and anxiety put immense pressure on all areas of the workforce to access face masks and adopt social distancing and increased hand washing. Our members reported delays in receiving adequate supplies, resulting in the reuse of disposable masks that had been handled and concerns about engaging with staff and patients who did not have or wear any. This was further exacerbated with the inclusion of face shields, which were felt to be less accessible and washing/ reuse of same was then encouraged as considered adequate for protection. Staff felt this to be related to*

*supply/costs as opposed to providing the highest level of infection control.....  
Many staff experienced trauma through the continual and long-term use of masks,  
with reports of skins reactions, panic attacks and overheating alongside the more  
obvious communication barrier.”*

## **The Health and Safety Executive (“HSE”)**

63. Unite Scotland informed the STUC of concerns they had in relation to risk assessments:
64. The risk assessments carried out at the outset of the Covid-19 pandemic were based on the guidance provided by Scottish and UK Governments which were often lacking in detail. These included the continuing changes to the use of PPE, who and what PPE had to be worn, the differences between AGPs, surgical staff, ICU staff, general ward staff and the domestics and support services staff including portering. In the early days of the pandemic this led to misunderstandings and misapplication of the guidance.
65. The risk assessments also included guidance on social distancing, protective screens, placements of hand hygiene dispensers and face masks. Whilst the initial groundwork was undertaken to ensure social distancing was in place, there were very few follow up visits to ensure it was being adhered to. These included the difficulties in policing changing room facilities, nurse stations and initially dining rooms. This was also difficult to police where there was no complete oversight of staff breaks which could and should have been staggered similar to staff start/stop times for shift patterns.
66. Staff working in the community i.e., health visitors, district nursing teams etc, were advised to undertake individual risk assessments before entering patients’ homes, however, it would be reasonable to say that the training to allow staff to safely undertake risk assessments was never in place. This led to an increased risk for community staff who in the early part of the pandemic were also sharing pool cars, which again, increased the risk significantly of infection.



67. The STUC were not formally informed that the Health and Safety Executive were no longer carrying out inspections during the pandemic. We are unaware that any of our members were formally notified of this change. Similarly, we were not notified of the decision in March 2020 to no longer classify Covid-19 as a High Consequence Infectious Disease.

68. Unite Scotland raised concerns with the Scottish Government that proper investigations were not being carried out in relation to the outbreak of Covid-19 in healthcare settings and explained in their impact summary for the Scottish Covid-19 Inquiry dated August 2023 [RF/66 – INQ000376407]:

*“Within Scottish healthcare settings, when an infectious disease outbreak occurs, this would be investigated and managed through a problem assessment group which includes Infection Protection Control staff, Occupational H&S, clinical staff including the ward manager, medical staff and staff side representatives. These meetings look at the timelines of the first infection, the movement of all patients, the rotas of staff working within the infected area which gives a very clear oversight in to how the infection entered the area, who all was involved, and clear timelines. The problem assessment group would also implement any measures to contain the outbreak. Taking into consideration the amount of outbreaks within healthcare settings and the frequency of outbreaks, it was impossible to run PAGs for every outbreak and this resulted in Covid Outbreak oversight groups reporting the outbreaks and numbers involved, it was unable to manage or control the outbreaks which we believe led to increased infection rates within hospital settings. If you combine this situation with the lack of RIDDOR investigations, the significant pressure within hospital services, there was very little in place to allow for learning to stop and prevent the future outbreaks which allowed the virus to run out of control.”*

### **Investigation and reporting of workplace deaths**

69. The STUC had significant concerns around collection of, and discrepancies in, data on workplace transmission of Covid-19. That was raised with Richard

Lochhead, Minister for Just Transition, Employment and Fair Work, on 25 November 2021. We reported that the number of Covid-19 deaths in the transport sector was listed by ONS as 608 but the Health and Safety Executive reported only 10. It is likely that employers were attributing cases to community rather than workplace transmission. We shared these concerns with the Minister along with the TUC report "RIDDOR, Covid and under-reporting" published 23 May 2021.

[RF/46 - **INQ000119177**]

70. Unions raised the issue of under-reporting and data discrepancies at numerous meetings with Scottish Government as summarised by Unite Scotland to the STUC:

71. The issue of the under reporting of workplace Covid cases under RIDDOR really came to a head in meetings of the STUC's Covid Response Group from January 2021 when, in announcing what was described as a "second lockdown". This "second lockdown" was in response to rising Covid cases via a new transmissible variant (with all of mainland Scotland and Skye placed in a "Tier 4" category). The Scottish Government announced that, unlike in the "first lockdown" (when work was restricted to work which was deemed to be "essential") all construction and manufacturing sites would remain open, including those conducting work that was not immediately essential e.g. the construction of new luxury homes, office blocks and shopping centres.

72. The union's raised concerns that this decision ran contrary to the evidence of large outbreaks of Covid cases on several construction and manufacturing sites (particularly in food processing); the nature of much of construction and manufacturing work (with large numbers of workers working in relatively close proximity to each other); the practice of shift workers in particular often travelling together in multi-occupancy vehicles when public transport is unavailable (and the potential "knock on" effect to transport users and workers when public transport was available); the seeming contradiction of restricting meetings in the general public to 2 people outdoors when permitting thousands of workers to meet at the workplace; and a lack of confidence that many employers in these sectors would

strictly adhere to required safety measures on distancing, provision of proper PPE, provision of sanitation and/or washing facilities etc.

73. In response, the Scottish Government officials present at the meetings indicated that the decision was based on information received via the HSE (including from RIDDOR reporting) which appeared to indicate that the incidence of Covid cases on construction and manufacturing sites was low. This, in our view, ignored the growing evidence of under-reporting, principally through allowing employers to “judge” that Covid transmission could be via community transmission rather than workplace transmission, an emphasis on their part to avoid being “blamed” for the situation and a historical culture, particularly in construction, of “blacklisting” workers who raised health and safety concerns.
74. The concerns of the unions regarding the inaccuracy or incompleteness of HSE data was also based on the fact that the level of HSE inspections had been reduced, thereby also affecting the degree of information regarding Covid outbreaks and potential breaches of Covid protections and/or regulations that the HSE had.
75. The unions continued to raise these concerns at the weekly meetings (some were held more frequently) with the Scottish Government and to highlight cases of Covid outbreaks on construction and manufacturing sites.
76. Following the announcement that construction and manufacturing sites were to remain open, there appeared to be a significant increase in concerns being raised about specific situations with both the unions and the HSE regarding construction in particular (with over 170 construction related cases apparently being raised with the HSE by mid-February).
77. The only change made by the Scottish Government was to rule that only essential maintenance work was to be carried out in domestic homes (e.g. to repair structural damage/leakage/heating supply failure etc.) – although the unions, after this, continued to highlight cases where programmed/routine work was being

carried out in apparent breach of this (e.g. the fitting of new kitchen and bathroom units etc.).

78. The concerns of the unions regarding under-reporting via RIDDOR were vindicated when the TUC report on RIDDOR under-reporting emerged [RF/46 - **INQ000119177**] and this was also consistently raised with the Scottish Government at the Covid response meetings.

79. The TUC report also highlighted under-reporting in other sectors, including in health and social care and, therefore, the situation of under-reporting in these sectors was also raised at meetings with the Scottish Government.

80. It is our contention that the under reporting of workplace Covid cases via RIDDOR presented an inaccurate picture, influenced the taking of wrong decisions and is, therefore, likely to have contributed to Covid cases and, subsequently Long Covid cases, which could have been avoided.

81. We understand that where there were deaths of healthcare staff as a result of Covid-19 infections, NHS Scotland did undertake proper detailed investigations including RIDDOR which were subsequently reported as per legislation.

82. We fully support amendments to legislation to recognise Covid-19 as an occupational disease. The lack of testing and use of robust test and trace procedures during the pandemic, particularly in the early stages, have shown the difficulty in evidencing workplace transmission. However, the number of deaths amongst health and social care workers is disproportionate compared to other employment sectors and roles. We firmly believe that those workers delivering essential services in health and social care were put at risk while carrying out their roles and in some instances, this has resulted in the tragic loss of life. One nursing trade union rep described the impact of the loss of a colleague as outlined in the impact summary by Unite Scotland for the Scottish Covid-19 Inquiry dated August 2023 [RF/66 – INQ000376407]:

*“we saw a big change in staff when we lost one of our own NR who was a valued member of our district nursing and out of hour service, NR was always bright, and bubbly and her patients loved her visiting them as she brought kindness and compassion. To me this was the point that it hit home for a lot of staff members as to how serious this was going to be, staff were becoming frightened as to what they were stepping into each day doing their job and what they could be taking home to their own family members...”*

83. The failure to consider Covid-19 as an occupational disease has also impacted on workers who have contracted Long Covid. The lack of acknowledgement and formal reporting of Long Covid as an occupational disease leaves workers without access to support and relevant employment policies that their employers would otherwise be expected to offer. It also limits workers protection and rights to claim compensation and relevant benefits.

84. The STUC is working closely with Mark Griffin MSP to build support for his Private Members Bill through the Scottish Parliament to establish a Scottish Industrial Injury Advisory Council.

### **Other Issues**

85. Aside from the serious health and safety risks faced by members in health and social care, the pandemic also raised significant financial challenges to many members. Concerns about lack of sick pay and the requirement to self-isolate was a significant issue that we raised with the Scottish Government throughout the early stages of the pandemic. The issue impeded various groups of workers but was of particular concern in social care where workers were likely to be on lower wages and had higher exposure to risk.

86. At a meeting with Jeanne Freeman, Cabinet Secretary for Health and Sport and Jason Leitch, Scottish Government National Clinical Director on 13th May 2020 we raised the issue of sick pay, in particular providing feedback from social care where the note of the meeting states:

*“in terms of care homes, whole home testing and that the levels of positive tests for those showing no symptoms is coming back high. .... also advised that they are picking up from the workforce, that workers are afraid of being tested in case they test positive and therefore end up in isolation at home on SSP...”* [RF/17 – INQ000107206]

87. The Cabinet Secretary noted that care workers are on low wages and agreed to further consider the issue. On 24 May 2020, she announced funding for social care workers to receive enhanced sick pay when they are self-isolating following a positive Covid-19 test [RF/54 - INQ000215614]. The resulting Social Care Support Fund was extended on several occasions until 31 March 2023.

88. Violence and abuse were also a significant area of concern during the pandemic as workers dealt with patients and members of the public who were often frustrated, angry or frightened. This resulted in increased levels of aggressive and abusive behaviour towards workers. The Pharmacists Defence Association (PDA) reported in their submission to the Scottish Covid-19 Inquiry dated August 2023 [RF/61 – INQ000376403]:

*“..members working in community pharmacy reported experiencing significantly increased levels of aggressive and abusive behaviour from patients and carers. This affected all members of staff, and varied from shouting abusive language, often of a racial nature, up to full physical assault. Many pharmacists had to report individuals to the police. The most common reported triggers for this behaviour were stock shortages, waiting times, queues, slow turnaround of prescription orders from surgeries, pharmacies closing for cleaning or lunch and demands for prescription deliveries to patients not designated as ‘at risk.’”*

89. We also experienced several frustrations that some actions that the Scottish Government and the STUC agreed upon as essential could not be implemented due to limits of devolution and a lack of financial support from the UK Government. Framing the pandemic response correctly in public health policy allowed the Scottish Government to provide regulations and guidance to employers regarding workers safety. However, the lack of control over employment laws often limited

the response, actions and funding that the STUC and Scottish Government agreed were required. We would therefore recommend the devolution of employment law to the Scottish Parliament.

90. Many of the failures or challenges in health and social care provision and the resulting impact on our members stems from the lack of investment in health and social care workforce and services.

91. In 2019 the Fair Work Convention published their report on social care in Scotland, “Fair Work in Scotland’s Social Care Sector” [RF/71 – INQ000376409]. The report outlined the main challenges in social care including the undervaluing of social care work, low pay and problems with recruitment and retention. The report reflected on the impact of austerity on the sector:

*“It is widely accepted that the social care sector is facing severe challenges due to austerity. It is also working to meet the needs of an ageing population that is living longer, but with more complex needs. Evidence taken by the social care working group was that 200,000 people receive adult social care services annually, with 100,000 people receiving half of the total health and social care budget: most are accessing many different aspects of the health and social care system.”*

92. Further the report detailed the complexities in the mixed market economy of social care, the changed role of local authorities in delivering care and the challenges in commissioning and procurement where both voluntary and private providers reported budget pressures due to procurement processes. These factors led to a variety of challenges including a “*disconnect between strategic planning, service commissioning and procurement approaches*” and a system that “*creates and relies upon competition has, according to some stakeholders, accelerated a ‘race to the bottom’ as providers compete to win contracts.*”

93. The structural complexity and use of private profit-seeking providers in social care undermines the stability of the sector and did not provide a resilient basis for the sector when the pandemic arrived. The use of agency staff to supplement NHS staff

leads to increased costs for NHS and does not offer value for money for public funding.

94. We would therefore recommend an end to for-profit delivery of social care and increased funding across health and social care in Scotland to support the recruitment and retention of staff.

95. Trade union representatives across health and social care worked tirelessly during the pandemic to carry out their own substantive roles whilst taking on the added responsibilities of their union duties. Their ability to identify, report, raise concerns and work towards solutions on behalf of members contributed to the effective delivery of services and safer workplaces. Health and safety representatives, along with workplace representatives provided essential information and protection to workers, often when official communications and guidance were contradictory or lacking. The reporting structure within unions resulted in an effective channel for concerns to be raised quickly from the workplace to the STUC and onto Scottish Government.

96. We would therefore recommend that health and social care employers are required to ensure trade union access is granted to workplaces, collective bargaining is introduced in social care and trade union representation becomes the default for workers representation.

97. The STUC is specifically aware of issues related to the following points covered in Annex A of Rule 9. Health sector unions may have raised issues or concerns directly with employers at Scottish Terms and Conditions Committee meetings, or in other forums, including directly with Scottish Government:

- a. guidance to healthcare staff at work who were “at risk” e.g. those with medical conditions giving rise to clinical vulnerability and/or individuals placed on the Shielding List/Highest Risk List;
  
- b. any shortage of medicines, therapeutics or other equipment used to provide care for Covid-19 patients during the relevant period;



- c. care and treatment for non-Covid conditions;
- d. the establishment of NHS Louisa Jordan and the use of private hospitals;
- e. any changes to antenatal and postnatal care; and
- f. the removal of the NHS Surcharge during the relevant period.

98. Various issues arose during the pandemic that impacted groups of workers with protected characteristics, including:

- a) the lack of testing and PPE for social care workers where the workforce is predominantly women with a higher proportion of black and minority ethnic workers;
- b) the requirement to retain mandatory face coverings to protect workers with underlying health conditions and disabilities;
- c) the lack of childcare and closure of schools, childminders and nurseries impacting on working parents where women are more likely to have childcare responsibilities and resulting in their inability to attend work with no compensation;
- d) the lack of elder care impacting on unpaid carers, again usually working women family members;
- e) the delay in providing and applying guidance for pregnant workers;
- f) the low uptake of vaccination amongst black and minority ethnic workers

99. Further concerns were raised around the granularity of data recorded for black and minority ethnic workers. We first raised this as an issue with Scottish Government following the release of a letter to the First Minister from the STUC Black Workers Committee on 22<sup>nd</sup> May 2020 [RF/47 - INQ000107240] stating:

*“Black and Minority Ethnic Workers are employed at a higher rate within the key workers category identified by Government and yet are more likely to be paid less than their white counterparts. They are over-represented in roles and jobs which put them at even greater risk to being exposed to illness and disease.*

*“... we are calling upon the Scottish Government to take urgent action to ensure that they immediately record, analyse, and publish the disaggregated data on the number of Black and Ethnic Minority (BME) deaths in Scotland that have occurred as a consequence of COVID -19. Record, analyse and publish the disaggregated data on how COVID 19 has affected Black and Minority Ethnic communities”.*

100. Similar concerns were raised at later stages of the pandemic in relation to disaggregated data on vaccine take up for black and minority ethnic workers.

101. The Scottish Government created an Expert Reference Group on COVID-19 and ethnicity. I think this was created around September 2020. I understand that, due to inadequate sample sizes being available at that time, it was ultimately concluded that, it would have to adopt and use UK wide data to inform policy in Scotland. I understand that disaggregated data was thereafter available [[RF/52 – INQ000215609](#)]. In the absence of Scotland specific data, this is the next best thing. A key lesson for any future emergency will be to ensure resources and systems are in place to provide adequate and disaggregated data can be collected from the outset.

102. A report prepared by Unison titled “Underlying Inequalities & Infection Risk - Black Workers & Covid19” sets out further information on these issues [[RF/59 INQ000215615](#)]

103. The Pharmacists Defence Association (PDA) reported on concerns of BAME members as outlined in their submission to the Scottish Covid-19 Inquiry, date August 2023 [[RF/61 – INQ000376403](#)]:

*“In June 2020 the BBC reported on a survey by the Royal Pharmaceutical Society (RPS) and the UK Black Pharmacists Association (UKBPA) which said that more than two thirds of black, Asian and minority ethnic pharmacists had not had workplace risk assessments for coronavirus. The RPS-UKBPA survey also found that 78% of black pharmacists and pharmacy students felt they were at risk of coronavirus and wanted changes to be made to the way they work. The RPS called the results “shocking.” The issue was highlighted again to the UK government’s All-Party Group on Covid-19 by the PDA in October 2020. It was also stressed that BAME pharmacy students were exposed to inequalities, and that changes to the registration exams disadvantaged many BAME students.*

*BAME pharmacists were subject to verbal abuse and violence, as were all pharmacy staff throughout the pandemic, but ethnic minority staff in particular were often subject to abuse of a racial nature. One reported that when trying to help a patient he was told “your kind of people wouldn’t understand”, it was a common theme, as was being told to “go home where you come from.”*

**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 \_\_\_\_\_

**Dated:** \_\_\_\_\_ 5<sup>th</sup> February 2024 \_\_\_\_\_