

IN THE UK COVID-19 PUBLIC INQUIRY

WITNESS STATEMENT OF GERRY MURPHY (The ICTU)

1. I am Gerry Murphy, Assistant General Secretary of the Irish Congress of Trade Unions (ICTU). My office address is 45-47 Donegall Street, Belfast, BT1 2FG, Northern Ireland.
2. I make this statement on behalf of the ICTU in response to a letter dated 29th 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. 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.
3. This statement is structured as follows:
 - a. An overview of the ICTU and its relation to workers in the NI Healthcare Sector
 - b. Healthcare systems across Northern Ireland before the Covid-19 pandemic
 - c. Impact of the Covid-19 pandemic
 - d. Infection prevention and control
 - e. Health and Safety Executive Northern Ireland
 - f. Investigation and reporting of workplace deaths
 - g. Other concerns or issues

a. The ICTU and its relation to workers in the NI Healthcare Sector

4. The ICTU is the largest civil society organisation on the island of Ireland, representing and campaigning on behalf of some 800,000 working people, 200,000 of whom live and work in Northern Ireland. There are currently 44 unions affiliated to Congress, north and south of the border. Some of our affiliated unions operate across Ireland and the UK, others only on the island of Ireland North and South, or solely in the Republic of Ireland or just Northern Ireland (NIPSA, UTU). As a trade union federation, the ICTU is unique in representing the interests of members across two jurisdictions. I exhibit a list of the affiliated unions with members working in health and social care (**Exhibit INQ000360943**).
5. Congress seeks to achieve a just society - one which recognises the rights of all workers and citizens to enjoy the prosperity and fulfilment which leads to a good quality of life. Quality of life embraces not just material well-being, but freedom of choice to engage in the arts, culture and all aspects of civic life. This vision applies in the context of Ireland, Europe and the wider world and challenges the existing economic order. Congress strives to achieve economic development, social cohesion and justice by upholding the values of solidarity, fairness and equality. The primary instrument for the achievement of this mission is the organisation of workers in unions. Congress is also constructing and advocating for a platform of policies capable of delivering our vision of a just society.
6. Congress seeks to shape and influence government policy in key areas, such as taxation, employment legislation, education and social policy. In general terms, the role of Congress is to:
 - Represent and advance the economic and social interests of working people;
 - Negotiate national agreements with government and employers, when mandated to do so by constituent and member unions;
 - Promote the principles of trade unionism through campaigns and policy development;
 - Provide information, advice and training to unions and their members;
 - Assist with the resolution of disputes between unions and employers;
 - Regulate relations between unions and rule on inter-union disputes. Congress operates in accordance with its Constitution and Standing Orders.
7. The Northern Ireland Committee of the Irish Congress of Trade Unions (NIC-ICTU) directs the work of the ICTU in Northern Ireland. Members of the NIC-ICTU are elected at the

Biennial NIC-ICTU Conference where policy for the organisation in Northern Ireland is also set. The NIC-ICTU also operates through a number of policy and advisory Committees including the Health Services Committee. Committees are reconstituted every two years following the Biennial Delegate Conference.

8. The NIC-ICTU Health Committee is comprised of various affiliate unions to the NIC-ICTU that represent workers at all levels across the entire Health and Social Care (HSC) system. The focus is on policy development and implementation and we engage with the Department of Health, the health arms-length bodies (Health and Social Care Board, Public Health Agency etc) and HSC Trusts on this basis. The Committee does not engage in collective bargaining on behalf of our collective memberships, a process which is taken forward by a separate structure comprising the DoH, Health bodies and the individual recognised unions.
9. The NIC-ICTU is involved in a range of civic society coalitions including the Women's Policy Group, the Equality Coalition and the Human Rights Consortium.

b. Healthcare systems across Northern Ireland before the Covid-19 pandemic

10. The Northern Ireland Executive and Assembly had just reformed in January 2020 following a hiatus of three years of collapse and reforming with the New Decade New Approach agreement when the pandemic struck. The three-year absence of government contributed hugely to the polarisation of already fragile political relationships and community cohesion. Although NIC-ICTU fully supported devolution and the Belfast/Good Friday Agreement, it remains our view that even prior to the collapse of the Assembly, there were serious deficits in how Government in Northern Ireland was working.

11. We have outlined this in our response to the Module 1 Rule 9 Request. Specifically:

The ICTU and our affiliate unions have been raising concerns about the impact of under investment in our public services for many years. Workforce planning and workforce issues in the Health and Social Care sector are of particular concern, and were summarised in a briefing for the NI assembly Health Committee in June 2020 **[Exhibit INQ000360944)**

Individual affiliate unions, particularly those representing professional and technical staff within the HSC, raise issues through the NIC-ICTU Health Committee that inform more broadly the position taken in relation to the transformation programme. In particular, affiliate unions representing physiotherapists, allied health professionals and radiographers are concerned about the lack of implementation of recommendations made within workforce reviews conducted within these areas.

Concerns exist about delays in signing off the recommendations within these reviews for implementation. A lack of investment in training and recruitment of specialist staff remains a major area of concern. Within midwifery, concerns exist that with a lack of workforce evaluation and the significant developments in maternity service provision there is no sense of what the optimum midwifery and maternity support workforce should be both now or in the future. A review process is also underway in relation to the social work workforce and we have identified that this has to be incorporated into the implementation of the framework agreement on safe staffing.

Resources and Funding

12. Health spending in Northern Ireland has increased in real terms in the years preceding the covid-19 pandemic. In the 10 years from 2009/10 to 2019/20, health spending increased by 25% in nominal terms or by just over 5% in real terms. As of 2019/20, Northern Ireland had the highest per capita expenditure on health of any UK country (of the English regions, only London has a higher per capita spend). However, Northern Ireland experienced the smallest increase in per capita health spending over the 10 years leading up to 2020. Nominal spending increased by 18% in Northern Ireland compared to 29% in England and Wales, and 23% in Scotland.
13. All levels of government, national, regional and local have some role in providing healthcare in Northern Ireland, but 95% of health spending is carried out by the Northern Ireland Executive. In terms of Northern Ireland's budget, Department of Health spending has increased from just under 42% of allocated current expenditure to over 52% in 2020.
14. Over 95% of Northern Ireland's budget for public services is determined by the block grant which is a combination of Resource (Current) and Capital Departmental Expenditure Limits (DEL). Northern Ireland does not have any significant revenue raising or exchequer borrowing facilities. The Northern Ireland budget is therefore a product of UK government decisions made in budget and Comprehensive Spending Reviews (CSR).

15. In the 10 years between 2010 and 2020, the grant for Resource DEL was £177m below what it was in 2009/10. This amounts to a 1.6% reduction so, while public expenditure on health continued to increase, this represented the smallest increase of the UK's four nations in per capita health spending over the 10 years leading up to 2020). This was at a time when other departments experienced real terms cuts to expenditure. In 2020, current spending pressures, including health, were estimated to be in the region of £500m per annum. There was a boost to capital spending in 2019/20 which brought the total spend to within £10m of the 2009/10 spend. However, capital spending fell back in cash terms in 2020/21 and was £137m or 9.2% below where it was in 2019/10 in real terms. The cumulative loss in capital spending in the 10 years to 2020 was £4.2bn. It was estimated in 2020 that the NI Executive has a backlog of capital expenditure projects totalling £5bn, and this is likely to have increased substantially in the years since.
16. Despite the clear evidence that the impact of Covid-19 had been exacerbated by over a decade of austerity and a failure to combat poverty and inequality, the November 2020 CSR at Westminster again represented an austerity plan for public services. The CSR did not restore levels of public spending in Northern Ireland to pre-austerity levels, nor has it provided the investment needed to reform and improve services delivered within health and social care, education or the community and voluntary sector for the benefit of the public and workers alike. The CSR has resulted in block grant funding for the day to day running of public services in Northern Ireland remaining essentially flat. It has also resulted in an inability to present a multi-year Executive budget, which we understand had been the original intention of the Department of Finance (DoF) following the single year budget for 2020-21.
17. Single year budgets such as these do not allow for clear, multi-year plans for sustained investment in public services. It is also of serious concern that the Executive has not moved since the NDNA agreement to put in place an agreed Programme for Government (PfG) that adopts the commitments made in that agreement. We are concerned that the Outcomes Framework currently being consulted upon by the Executive does not represent such a PfG.

Workforce Strategy

18. In May 2018 the Department of Health published 'Health and Social Care Workforce Strategy 2026: Delivering for Our People'. This was a year later than the commitment made within 'Health and Wellbeing 2026' which had promised such a strategy by May 2017 to cover all aspects of the HSC workforce, including recruitment and retention, opportunities for introducing new job roles and reskilling and upskilling initiatives.

19. The workforce strategy sets as one of its objectives that by 2019, the Department and health and social care providers would be able to monitor workforce trends and issues effectively, and be able to take proactive action to address these before problems become acute. However, we are concerned that our members working in health and social care services continue to be working under increasing pressure, with poor morale and increasing stress. We have suggested that the Northern Ireland Assembly Committee for Health may wish to seek information on what systems are in place to monitor workforce trends and for examples of the kinds of proactive actions that are being taken before problems become acute.

20. It is the view of the NIC-ICTU Health Committee that comprehensive workforce planning and engagement with staff and their representative trade unions using the principles of co-production and co-design should be an integral part of all the workstreams under the transformation programme. The transformation process will only be successful in delivering better health outcomes for the public where it has the support of the workforce. However it is clear that workforce planning and engagement has not been sufficiently mainstreamed into the transformation programme and the effect of this has been acutely felt in the response to the Covid-19 pandemic. **[Exhibit INQ000360945]**

21. Unison is one of the largest unions operating in Northern Ireland, with membership in education support services, the community and voluntary sector and most prominently, in the NHS. The NIC-ICTU Health Service Committee (HSC) is chaired by Anne Speed, Unison's lead negotiator who also sits on the NHS bargaining structures. Unison's John-Patrick Clayton is the NIC-ICTU representative on both the board of the Public Health Agency and the DoH's Transformation Advisory Board.

22. The HSC of NIC ICTU appeared before the Health Committee of the Northern Ireland Assembly in June 2020, the following is an excerpt from the evidence presented before the Committee **[Exhibit INQ000360944]:**

We are extremely concerned that the Covid-19 pandemic will further widen health inequality within our society. Covid-19 itself is particularly dangerous for persons with underlying health conditions such as respiratory diseases and heart disease, conditions which disproportionately affect people in Northern Ireland living in the most deprived areas... Over the last decade HSC services have been through a period of sustained austerity. It is accepted across the system that the cost of providing health and social care increases by around 6% annually. This level of investment, effectively to allow HSC services to stand still, was not forthcoming during the last decade and has left our members working in a service that is under-resourced and under pressure.

23. Individual affiliate unions, particularly those representing professional and technical staff within the HSC, raised issues through the NIC-ICTU Health Committee that inform more broadly the position taken in relation to the transformation programme. In particular, affiliate unions representing physiotherapists, allied health professionals and radiographers were concerned about the lack of implementation of recommendations made within workforce reviews conducted within these areas ([Exhibits INQ000360946 - INQ000360947])

24. In December 2020 the NI leaders of the two largest unions in the NHS, Unison and RCN, wrote [Exhibit INQ000360945] to the Minister of Health “to convey the growing sense of discontent amongst our respective membership over the continuing lack of progress towards Safe Staffing legislation for the Health and Social Care (HSC) workforce.” The letter reminded the minister that such legislation was “an integral part of your safe nurse staffing framework, published earlier this year in response to the industrial action taken by our members.” This refers to the strike action taken in December 2019, and one year later, concerns were being raised that such necessary legislation may never be realised. These fears have sadly been justified.

c. Impact of the Covid-19 pandemic

25. The Northern Ireland Executive (NIE) formed a Strategic Engagement Forum (The Forum) which brought together employers, trade unions and statutory bodies including the Health and Safety Executive for Northern Ireland (HSENI) and the Public Health Agency [Exhibit INQ000187955] The Forum was chaired by the Labour Relations Agency. While not solely concerned with the healthcare system, it had input from affiliated unions with members in HSC bodies, in particular Unite, NIPSA and Unison.

26. The Forum published key documents including a list of priority sectors and workplace safety guidance which informed NI Executive policy. After this initial work, however, the Forum was unfortunately largely ignored by the Executive. Given the crucial role that the trade union movement had in representing workers who were working on the Covid-19 front line, the ICTU made repeated requests to meet bilaterally with both the First and Deputy First Ministers of the Northern Ireland Executive during the period of the pandemic. Notwithstanding genuine engagement from some individual Ministers, it is nevertheless regrettable and a significant failure of leadership that the joint office of the First and Deputy First Minister failed to meet with the ICTU. Despite repeated requests from the restoration of devolution in January 2020, NIC-ICTU never secured a direct meeting with the joint holders of the Executive Office, First Minister Arlene Foster and Deputy First Minister Michelle O'Neill. The purpose of seeking a meeting with political leaders was to discuss policy matters, some of which had a direct bearing on the impact of the pandemic. In April 2021, ICTU AGS Owen Reidy wrote directly to First Minister Foster **[Exhibit INQ000397230]** to request a meeting to discuss, among other matters, the wider lessons of the pandemic and partnership working such as the Engagement Forum: *"This type of process is advocated in the spirit and text of the Belfast/Good Friday Agreement and indeed the New Decade New Approach Agreement, both of which promote such forums whereby politicians engage directly with the citizenry of Northern Ireland through structures where the people trade union representatives, community and voluntary representatives and business representatives can assist in the progress we all urgently need. The Executive has failed to develop such forums be they social dialogue or civic dialogue previously (with the notable exception of the NI Engagement forum dealing with labour market related issues relating to Covid 19). This now needs to be urgently attended to."*

Engagement Within the Healthcare System

27. A tripartite system of updates and information sharing was established within the HSC based on the existing NHS 'Agenda for Change' negotiating structures used for pay and conditions, initially weekly in the early stages of the pandemic, becoming less frequent as the system established procedures to manage the situation. The topics covered in the initial agendas included Shielding, PPE, face covering, testing, fit testing, death-in-service, contact tracing, childcare, health & safety officers. These meetings took place online. NIC-ICTU has copies of the agenda and brief reports of most of these meetings **[Exhibit INQ000360956]**.

28. Additionally, Unison corresponded with a large range of officials and ministers as the situation developed with the above agenda items. Many of the matters raised in that early period of the pandemic are summarised in the Briefing Note (GM2/) for the NI Assembly Health Committee Evidence session dated 11th June 2020. The agenda of that meeting focused on three themes:

- Trade unions input into major HSC policy issues, including the Delivering Together Transformation Programme **[Exhibit INQ000360946]**;
- Workforce issues;
- The impact of Covid-19 in social care and the need for substantial reform of the social care system **[Exhibit INQ000360947]**.

The evidence session heard particular concerns raised by unions about *“the impact that the Covid-19 pandemic will have on resources both for the day-to-day running of health and social care and in the resources required to enable transformation to take place.”* Unison called for a full analysis of Covid-19 to date in terms of health inequality (including BAME workers) and action on testing, PPE, standing down and restarting HSC services, as well as a long discussion of the impact in social care. (The briefing note from NIC-ICTU Health Committee, correspondence from UNISON providing its initial response to the NI care home live-in proposal. and Hansard are referenced **[Exhibits INQ000360944/ ; INQ000360946/ ; INQ000360947]**)

29. Surveys of the workforce were conducted on a limited and self-selecting basis by affiliates, monitoring wellbeing and mental health, but response rates were relatively low. However, the Inquiry will be aware of the substantial rolling study **[Exhibit INQ000360948]** of the HSC workforce conducted by both NI universities, alongside King's College London and Bath Spa University, and funded by the HSC R&D Division of PHA NI, the NI Social Care Council and the Southern (NI) HSC Trust. The study commenced in May 2020 and has recently issued its report on Phase 6, with surveys conducted from November 2022 – January 2023. The study focuses specifically on the experiences of nurses, midwives, allied health professionals (AHPs), social care workers and social workers, and most of the 1.395 responses were from women workers. The findings are a stark reflection of the stresses of working in the HSC since early 2020 not least the pressure on staff and impact upon recruitment and retention. The following are quotes from respondents:

“58.1% reporting feeling overwhelmed by increased pressures”

“Nearly one-half of the respondents UK-wide (43.0%) had considered changing their employer, with the highest proportion of these being from England (51.5% within England) and followed closely by Northern Ireland (43.3% within Northern Ireland). Within social work, 48.9% of respondents considered changing their employer”

“Within social care workers, 44.2% considered changing their occupation during the pandemic. Respondents indicated that a pay increase (61.2%), manager support (46.2%), well-being support (41.0%), and safer working conditions (38.6%), would change their minds about wanting to leave their employer or current occupation”

“We found that both mental well-being and quality of working life deteriorated from Phase 1 to Phase 6 of the study”

“During the COVID-19 pandemic from November 2022-January 2023, 3.5% were able to work from home all the time, while 34.3% could work from home some of the time. Social workers were most likely to work from home all the time (8.6% of social workers) or some of the time (70.9% of social workers), while most social care workers (84.8% of social care workers), nurses (77.1% of nurses) and midwives (75.9% of midwives) were not able to work from home at all”

The Phase 6 report concludes with a series of ‘Good Practice Recommendations’ reflective of what unions sought to negotiate during the pandemic. Also, the report firmly links pressures external to the pandemic having a large and negative impact on HSE workers and especially affecting recruitment and retention:

“Indeed, there seems to be a “vicious cycle” developing whereby the effects of staff attrition on colleagues lead to further staff departures. At the same time, it is also noted that changing economic conditions are currently impacting retention and recruitment, especially the cost-of-living increases which can precipitate staff departures. These are the “push” factors. At the same time, there are “pull factors”. As the economy opens, post-pandemic, there is greater availability of alternative employment, some offering greater flexibility and higher remuneration. Furthermore, and not unrelated to economic change, the education sector reports significant decreases in students taking up places in many areas of health and social care which will impact recruitment soon. Therefore, the need for action on retention and recruitment has developed greater urgency.”

And

“In our first survey report we called for research on patient and service user outcomes to see whether organisational structure changes involving reductions in hierarchy permitting

greater autonomy, which operated by necessity during the height of the pandemic, can make a positive difference to service quality on an ongoing basis. We also suggest that local forums and national planning consider the right balance between clinical or professional judgment and guidelines using the experience of the pandemic to inform these deliberations. We are hopeful that the national inquiry into the management of the pandemic will consider these questions and will forward our reports to the inquiry."

And

"We noted in our first report that employers in the health and social care sector should address the adequacy and coverage of Statutory Sick Pay for their staff. This Recommendation stands."

SSP

30. The issues around Statutory Sick Pay and uncertainty over the furlough scheme were raised by NIC-ICTU with minister and officials, and were publicised in press statements in 2020 and 2021. For instance, in November 2020 ICTU General Secretary Owen Reidy stated that the second lockdown avoid earlier mistakes: **[Exhibit INQ000360950)**

"Lockdowns and circuit breakers can be crude and blunt devices which can have other unwanted consequences particularly for low paid workers and the most vulnerable in our society. That is why we need action and not words to significantly improve the infrastructure developed in recent months for Test, Trace and Isolate.

"Workers need to know that if they are exposed to infection then they must take time off and isolate from their work colleagues and receive adequate sick pay and not the paltry statutory sick pay of £94.25 per week. Employers must be clear on the regulations and requirements around the isolate rules and ensure compliance to halt the risk of cross infection.

"The trade union movement has repeatedly called for the furlough scheme to be reinstated in full. We welcome the fact that the Chancellor has reinstated the scheme but we believe that the NI Executive must have access to such a scheme which it deems necessary and such funding must not be conditional on whether there are restrictions applying in England or not. In the event the NI Executive endorse the call of public health specialists and continue with the current restrictions for a longer time, it is essential that workers, such as those in the hospitality sector and other low-paid affected sectors, receive their full salary and not 80% of their pay in this instance. For example, over 80% of hospitality workers earn less than the real living wage. Therefore for many of these

workers, their income from furlough will be less than the national minimum wage. This is unacceptable and wrong. The lowest paid must not pay this price.”

31. The trade union movement's position on the inadequacy of statutory sick pay was articulated throughout this period. However, as raised in our evidence to modules 1 and 2 of the inquiry, had we had a formal process of engagement, through for example, social dialogue with the Northern Ireland Executive, this could have been made much more forcefully and had a more strategic impact.

d. Infection prevention and control

PPE

32. The issue of PPE was of particular concern to trade unions within the healthcare sector. These trade unions were representing members who were at the frontline of providing care for those who contracted COVID and were hospitalised, continuing to provide care for people hospitalised for other serious non COVID related illnesses and health conditions as well as workers who provided care and services in non-hospital healthcare settings and in domiciliary care. The stress of dealing with a confusing and rapidly changing situation must not be underestimated and the longer term impacts of this on the mental health of workers must be considered as part of an ongoing workforce strategy.

33. We understand that future modules of the Inquiry will focus specifically on the care sector and we will therefore not address this within this statement.

34. The Joint Secretaries of the health unions highlighted concerns in relation to PPE provision and guidance throughout the pandemic to HSC. A letter from the Joint Secretaries of the Health unions to Andrew Dawson Director of Workforce Policy, highlights issues of particular concern in March 2020: **[Exhibit INQ000360953)**

We are still not seeing regional coherence and clear communication on key issues and this concerns us and is an impediment to early resolution of issues and regarding the issues around Personal Protective Equipment (PPE), Trade Union Side are seeking a regular update on the supply for those delivering care across all health settings.

The issue of clarity of the guidance and reassurance to our members regarding the use of PPE is a significant issue. It is clear from our members there is a concern regarding the current guidance and our members are incredibly fearful for their safety and that of the safety of their patients & loved ones. The Department requires to have the guidance reviewed and clear guidance provided to all staff regarding this issue.

It had been noted that the CMO would be liaising with his counterpart in ROI. We need details of stock ordered from various sources, including across NI Industry. We are especially concerned at the low supplies and limited use of PPE in the domiciliary care sector including among independent and private providers.

35. In the early stages, information was particularly confusing and the news that Public Health England had issued guidance concerning reuse of PPE caused further serious alarm in April 2020, as highlighted in the email correspondence on 20 April from Anne Speed of UNISON to the Department of Health for Northern Ireland. **[Exhibit INQ000360951)**

36. Individual affiliates operating in the healthcare system also raised concerns about PPE. The RCM represents midwives across the UK and Northern Ireland. The RCM received significant information from their members in respect of conditions for midwives during this period. An RCM member recorded on 30 March their concern about issues facing midwives: **[Exhibit INQ000360954)**

Anxieties and environmental tension on Labour ward is extremely high regarding caring for women in labouring rooms (with partners), close proximity for up to 11/12 hours per shift. They could be symptomless, exposed prior to admission, and we can't be certain if they have been following social distancing guidance

General nursing on wards can potentially distance from patients as best they can, carry out bundles of tasks at the same time to reduce exposure and are certainly not in a position where they are 1-2 persons for prolonged period for shift of up to 11 hours. Midwives are feeling that we have been forgot about in our unique position, undervalued and vulnerable.

Can we escalate that midwives need PPE for caring for all labouring women, not just confirmed or suspect/exposed. We feel that as a minimum we should be donning PPE of hat, apron and masks for caring for all labouring women at all times during the covid outbreak.

Impact on maternity services

37. RCM also highlighted concerns about impacts on maternity services, both in relation to service users and staff. Of particular concern was the lack of consultation with unions such as RCM in planning for the paediatric pandemic surge in April 2020. In email correspondence on 8 April to the then Chief Nursing Officer for Northern Ireland Charlotte McArdle, RCM Director for Northern Ireland Karen Murray said **[Exhibit INQ000360955)**

It was clear that once any reconfiguration of paediatric services would take place there would be a direct impact on Maternity services yet neither senior midwifery or obstetric representatives had any meaningful opportunity to be involved in the planning for these changes. When services make plans in isolation there will always be a risk that there will be consequences for other services. It is only but right that every opportunity should be taken to mitigate this and ensure maximum time for planning.

We would like to express our deep disappointment that opportunities to engage with the maternity services did not take place. We are clear that these are exceptional times but that should not negate the professional respect which should be afforded when making significant service changes. The involvement of senior Midwives in these discussions would have ensured early identification of the impact of reconfiguration and would have given managers a greater opportunity to plan effectively within their own services.

38. The attached non exhaustive list is a sample agenda outlining the range and breadth of issues which trade union side was raising with health employers throughout the period 2020-2022. The list was supplied by the Joint Trade Union Secretaries. **[Exhibit INQ000360956]**

39. We would again like to pay tribute to the workers and their representative unions, who were dealing with enormous pressures whilst maintaining vital public services across all healthcare settings.

Guidance to vulnerable workers

40. NIC ICTU and our affiliates were also extremely concerned about the confusing advice which was being given to pregnant women. In April 2020, following the Prime Minister's Statement that pregnant women were being considered vulnerable, RCM sought to secure guidance for pregnant workers. In an email sent on 16 March to the Head of Workforce Planning in the Department of Health, RCM regional Official Mary Caddell stated: **[Exhibit INQ000360957]**

*Pregnant women are now considered vulnerable along with the elderly and those with underlying medical conditions and may be asked to socially isolate for 12 weeks. The advice and statements made are causing fear and confusion especially among those staff who are pregnant and we obviously need **clear and unambiguous guidance** for staff and employers. I don't need to remind you how this will potentially impact on staff and the service.*

e. Health and Safety Executive Northern Ireland

41. Employers have a duty to take reasonable care of the health and safety of employees, arising from common law, the Health and Safety at Work (Northern Ireland) Order 1978 and other health and safety regulations. The Management of Health and Safety at Work Regulations (Northern Ireland) 2000 oblige employers to conduct suitable risk assessments and identify preventative measures. Breach of health and safety obligations could give rise to a personal injury or enforcement by the Health and Safety Executive Northern Ireland, including criminal sanctions in serious cases.

42. The NIC ICTU has already made clear in evidence submitted to the Inquiry that Health and Safety at work must be seen as a central part of the state's preparedness in the event of a pandemic. The Health and Safety Executive for Northern Ireland is the lead body which, along with District Councils, is responsible for the enforcement of workplace safety. In general, we would comment that the underfunding of public services and the agencies tasked to deliver such services, such as the HSENI, has a knock-on effect on all aspects of Northern Ireland's public health system.

43. Although the legislation underpinning the HSENI makes provision for the HSENI Board to have tripartite membership with 3 worker representatives, unfortunately there have been no worker representatives appointed to the Board for many years, including over the period of the pandemic. In our view this is a fundamental weakness in the HSENI as it fails to consider health and safety from a worker perspective, this was particularly important during a pandemic when the safety of workers was more at risk than ever.

44. Whilst NIC ICTU worked alongside the HSENI on the Strategic Engagement Forum and to produce specific pieces of work, such as the safe return to work guidance – *Working Through this Together*, [Exhibit INQ000187960] this was by no means a substitute for the sort of structured engagement for which we have previously argued. The absence of worker representatives on the Board of the HSENI means that employee representatives have only opportunities to influence either the strategic direction of the Executive, nor it's response to a situation such as a global pandemic.

45. In preparing this evidence statement NIC ICTU submitted a request [Exhibit INQ000360959] for information to the HSENI relating to workplace deaths and other enforcement issues in healthcare settings but has not received this information at the time of writing this witness statement. Subsequently, whilst we are not in a position to provide detailed evidence on this point, we would share the concern of our colleagues in the TUC whereby the percentage of deaths of workers was higher than the average in certain

occupations but that this was not matched by the number of deaths reported under RIDDOR.

46. In November 2020, the Health and Safety Committee of ICTU issued a survey to all affiliated unions to gather the experience of health and safety reps, this was the first comprehensive survey issued to health and safety representatives in Northern Ireland. **[Exhibit INQ000360960]** It was a particularly important year to gather information relating to workplace health and safety, given that the period covered 12 months of the COVID-19 pandemic. Whilst the survey was not specific to the healthcare sector, nevertheless a significant number of responses came from members of unions with members in that sector.

Profile of respondents

- *153 health and safety representatives responded, representing 13 affiliates across the public and private sector. The majority of respondents (69%) of respondents were men, 31% women.*
- *The survey asked a number of questions about what action employers were taking to mitigate risks posed by COVID.*
- *The majority of reps (92%) said their workplace was open for workers, in other words, either some or all of workers were working from their usual place of work.*
- *Whilst the large majority of reps said that their employer had updated their risk assessment to take account of the additional hazards posed by COVID, 14% of respondents either didn't know or said that their employer had not updated their risk assessment, a not insignificant percentage given the seriousness of the issue.*
- *More worryingly, over a third (36%) said that there had been no health and safety rep consultation as part of the COVID risk assessment.*

47. Not surprisingly, the period covered by the survey meant that health and safety reps were busier than ever. Nearly three quarters of reps said that they had been spending additional time performing health and safety functions, with 28% saying that they were doing this in their own time, outside of their paid employment. Of the reps spending additional time on their health and safety functions, a third said that they were spending, on average, an additional 20 hours per week.

48. We asked reps to tell us if they were dealing with more cases of mental ill health during the pandemic. Not surprisingly, more than half indicated that there had been an increase

and many of the comments left by respondents related to issues of stress, over work and mental ill health.

PPE

- 52% said that sufficient PPE had always been provided
- 27% said that sufficient PPE had sometimes been provided
- 7% said that sufficient PPE had not been provided.

Vulnerable groups of workers and COVID

49. We wanted to know how employers had protected vulnerable groups of workers during the pandemic. These groups included pregnant women and black and minority workers.

Pregnant workers

50. Only 22% of respondents told us that additional risk assessments for pregnant workers had been undertaken and a similar percentage indicated that additional mitigations had been put in place.

Domestic Abuse

51. It had been well documented that the periods of lockdown have been associated with significantly higher rates of domestic violence and abuse. Just over 80% of respondents said that they either didn't know (44%) or that their employer had not (37%) taken any steps to respond to the increased levels of domestic abuse experienced during the pandemic.

52. A minority said that their employer had taken some steps and these included providing guidance to employees (10%) and providing information for a specialist support service (5%). Only very small numbers indicated that their employer had provided additional support for individuals or reviewed and updated risk assessment.

Black and Minority Ethnic Workers (BME)

53. Only 5% of respondents indicated that their employer had put in place additional risk assessment and/or risk mitigation for BME workers. The rest of the respondents indicated that there were either no BME workers in their workplace (30%) or that they either didn't know if (30%) or their employer had not taken any additional measures to protect BME workers.

Classification of COVID-19 as an occupational disease.

54. The Northern Ireland Committee of ICTU shares the concerns expressed by our sister Congresses in other jurisdictions by the failure to classify Covid-19 as an occupational disease. 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.

55. The case for prescribing Covid-19 was set out in the TUC report *Covid-19: an occupational disease* from 15 August 2022 [**Exhibit INQ000119175**]. In this report, which NIC ICTU endorses, the TUC 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.

56. 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.

57. We agree with the TUC that Long Covid should be recognised 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. Many European countries have already classified Covid as an occupational disease. NIC ICTU 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.

f. Investigation and reporting of workplace deaths

58. Information relating to the investigation and reporting of workplace deaths was requested from the HSENI but has not been received. As has been noted above, we are therefore not in a position to provide evidence on this matter.

g. Other concerns or issues

59. Matters raised by NIC-ICTU with the Health minister by letter dated 28 October 2020 included a request for ethnicity and occupation to be recorded in the Covid-19 data collection systems for Health and Social Care in NI, following reports *“that BAME and migrant worker communities have been heavily affected by the disease in certain geographical areas and particularly amongst those working in the food processing sector here”* [Exhibit INQ000187971].

60. The letter, sent from NIC-ICTU's Crossing Borders Breaking Boundaries (CBBB) project went on to say *“Further to this, as you are no doubt aware, some employers in the food processing sector only put measures in place to protect their workers from the spread of Covid19 once pressure was put upon them. From our work on the project we understand that there are still employers in this sector that appear not to be adequately protecting workers from BAME and migrant communities. The situation is compounded by the fact that many of these workers are vulnerable and need to continue to work to support their families, as the Statutory Sick Pay is insufficient to cover their basic cost of living.”* The Minister responded on 18 November 2020 [Exhibit INQ000187972].

61. A similar request had been delivered from CBBB to the Public Health Agency in July 2020 [Exhibit INQ000187973]. Two meetings with the PHA followed in August and September 2020.

62. A matter which arose at the onset of the vaccination programme in 2020 was the eligibility of certain persons not permanently living ('ordinarily resident') in NI but temporarily residing in NI for work, study or some other purpose – including persons who were visitors but are 'stuck' here as they could not travel home due to Covid 19 restrictions. This seems to have arisen during the period of the rollout of the vaccine in UK/NI and the EU/Republic of Ireland, amid a 'concern' about 'vaccine tourism'. The main eligibility criteria (registration with the NHS or a NI GP) excluded some people, mainly students, asylum seekers, some homeless persons and visitors. After being raised by the NI Human Rights NGO, the Committee on the Administration of Justice (who have a long-standing working relationship with NIC-ICTU) and alerted by an MLA on the NI Assembly Health Committee, the DoH resolved the matter, explaining in response to the MLA that:

“They are absolutely entitled to be vaccinated, but we do not expect them to book through the portal. We will have outreach teams or a separate mechanism whereby the trusts will book them into the vaccination centres because they will not have a health and care number and may not have a GP. That will exclude them. The Public Health Agency is very aware of those groups and individuals. They were vaccinated by the mobile teams. Indeed,

this weekend, there is a group of fishermen who are being vaccinated. They are residents, but, as you can imagine, that changes from time to time. Specific people have also been targeted from within the homeless group and from amongst the migrant population and asylum seekers, which includes those who have been refused asylum. We have a responsibility to vaccinate them. The Public Health Agency is aware of who they are and is working closely with the trust teams to provide them with mobile vaccinations.”

63. The easy resolution of the issue by DoH officials should not distract the human rights infringements of indirect racial discrimination and compliance with ECHR Articles 8 & 14 as noted by the Committee for the Administration of Justice (CAJ) in their briefing note on vaccine eligibility and residency status. ([**Exhibit INQ000360961**])

64. In addition, Unison Regional Secretary Patricia McKeown held regular meetings with NI Executive Ministers, in particular Health Minister Robin Swann, either leading a Unison delegation or alongside a joint delegation of Health unions, such as the RCN. Unison have prepared a timeline of meetings from 2 April 2020 to 28 March 2022, showing meetings taking place with ministers, senior officials or various boards inside the NHS [**Exhibit INQ000360962**]. Unison also made a substantial amount of submissions, briefing notes, press releases and letters over the two year period, all of which are archived and available to the Inquiry. A list of the documents is provided [**Exhibit INQ000360963**].

65. Alongside those interventions on behalf of its members working in the NHS, C&V and education sectors, Unison also raised human rights and equality issues relevant to the wider community, issues such as those raised in the ICTU's briefing paper that was sent to the Ad Hoc Committee on the Bill of Rights in advance of a NI Assembly evidence session in March 2021 [**Exhibit INQ000187979**]. Unison's Patricia McKeown participated in briefings hosted by the Equality Coalition, an umbrella grouping of human rights NGOs it co-convenes with the Committee on the Administration of Justice (CAJ). These briefings addressed many of the wider human rights and equality issues raised by the circumstances of the pandemic and the response of the authorities.

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.

Personal Data

Signed:

Gerry Murphy

Dated: 23 January 2024