

---

WITNESS STATEMENT OF KATE BELL (THE TUC)

---

I am Kate Bell, Assistant General Secretary of the Trades Union Congress (“TUC”). My office address is Congress House, Great Russell Street, London, WC1B 3LS.

1. I make this statement on behalf of the TUC in response to letters to the TUC and TUC Cymru dated 11 November 2024 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 7 of the Inquiry, which is examining the approach to testing, tracing and isolation (“TTI”) adopted during the pandemic in England, Wales, Scotland and Northern Ireland. As requested, this statement will focus on the period of time between 1 January 2020 and 28 June 2022. The approach to and experience of the TTI system in England were largely mirrored in Wales. This statement therefore only makes specific reference to the Welsh experience where it may have differed or where further detail is necessary.
  
2. This statement is structured as follows:
  - a) Introduction;
  - b) The structure and role of the TUC;  
*The relationship between the TUC and its sister organisations in the devolved nations*
  - c) Engagement with the UK Government on TTI;  
*Form of engagement*  
*Extent of engagement on TTI*  
*Sector-specific engagement*
  - d) Statutory Sick Pay and isolation;
  - e) Effectiveness of the TTI system and support for those required to self-isolate;  
*Health*  
*Social care*

*Education*  
*Transport*  
*Food processing*  
*Retail*  
*Construction*

f) Conclusions and lessons learned.

## **A. INTRODUCTION**

3. The key issues with the test, trace and isolate (“TTI”) system during the pandemic, as experienced by our members, were two-fold: firstly, a lack of availability of testing in some sectors and, secondly, where testing was available, non-existent or inadequate financial support for self-isolation for those who tested positive for the virus. The inevitable implication of the latter was that some workers would avoid testing for fear of the financial consequences, particularly with many in poorly paid and precarious work.
4. Unions supported TTI as a principle – it is an essential tool in restricting the spread of the virus, reducing infections and deaths, and minimising disruption to society and the economy. However, TTI in the UK was an ill-thought-out system, compounded by unclear, rushed and ill-informed guidance from Government. This left many workers in the dark or confused as to steps they should be taking to test and/or isolate. Indeed, in September 2020, the Department for Health failed to inform the local authority in Portsmouth that a major Covid-19 testing site for the whole South Coast had been moved to Southampton, despite long-term commitments that it would be available to key workers until at least 5 October 2020 [KB/1 - INQ000553598]. Such were the failures with the TTI system that, in October 2020, GMB Union (“GMB”) called for the scheme’s executive chair, Dido Harding, to resign and for the programme to instead be taken into public hands, led by experts and local authorities [KB/2 - INQ000553599].
5. Unions attempted, where possible, to fill the vacuum of Government guidance and leadership, but the fact is that workers throughout the UK were often left confused as to the right course of action and the lack of support provided through the TTI system meant too many suffered financially or risked their health and that of their colleagues, families and the wider public by attending work when potentially infected with the virus. Those working in social care had to fight for access to tests. School staff bore the overwhelming burden of effectively running TTI in the education sector in the absence of Government or local authority leadership. Transport workers were told to disable the NHS app and attend

unsafe workplaces. Retail workers were largely sidelined and those in food processing had to campaign for testing and support for isolation, even in the face of outbreaks at work and the deaths of colleagues from Covid-19.

6. Even within workplaces, the effectiveness of TTI varied. With agency workers, such as in social care, and support staff in schools sometimes having even poorer access to testing and support for isolation than their directly employed colleagues.

## **B. STRUCTURE AND ROLE OF THE TUC**

7. The TUC was founded in 1868 and seeks to stand up for everyone who works for a living, making sure their voices are heard, by publishing research and evidence and campaigning for changes to the law and in society. We seek to put working people at the heart of our society, economy and politics. We do this by supporting trade unions to grow and thrive, helping them represent their members and keep pace with the changing world of work. We advocate for collective bargaining and trade unionism and we aim to help union members get on in life.
8. Our values guide us in all our work. We stand for equality, fairness and justice, and for dignity and respect for all working people. We believe in solidarity: that working people can achieve more acting together than they can do on their own. And we are internationalists, acting with trade unionists around the world to promote working people's interests.
9. The TUC has 48 member unions, each of which is listed at [KB/3 - INQ000119021]. The TUC exists to support its member unions and the members of those unions. In doing so, it brings together 5.5 million working people. The member unions of the TUC span a wide array of sectors, across the UK, all of which were affected by the pandemic. The sectors represented by the TUC member unions include workers in the whole range of health and social care services, construction and manufacturing, railways, aviation, education, food industries, communications workers, fire and rescue services, the civil service, and the arts.
10. During the course of the pandemic, the TUC was led by its then General Secretary, Frances O'Grady. Following her retirement, she was replaced as General Secretary by Paul Nowak, who commenced his role in January 2023.

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

11. TUC Cymru is part of the TUC and sits within the TUC's Organisational Services and Skills Department. It is an integral part of the wider organisation but autonomous in some policy areas. TUC Cymru consists of trade unions that are affiliated to the TUC and who have members in Wales and trades union councils in Wales registered with TUC Cymru. TUC Cymru has devolved responsibility within the TUC for: matters which are within the powers of the Welsh Government and the Senedd; matters that are wholly specific to Wales; and developing policy on matters which impact substantially differently on Wales than elsewhere in the UK. Regarding clearly UK-wide, non-devolved matters that do not impact Wales substantially differently to the rest of the UK, WTUC provides advice to the TUC on delivery in the Welsh context.
12. The Scottish TUC ("**STUC**") is not part of the TUC; it is an independent trade union centre to which trade unions affiliate their Scottish membership. The STUC represents over 540,000 trade union members in Scotland from 43 affiliated trade unions and 20 trade union councils and is governed by the STUC General Council who are elected annually at Congress.
13. The Irish Congress of Trade Unions is also an independent trade union centre. It represents trade union members across both Northern Ireland and in the Republic of Ireland. The Northern Ireland Office ("**ICTU-NI**") is responsible for all issues affecting nearly 250,000 members in 36 unions in Northern Ireland. Many of the functions of that office are similar to those in Head Office of the Irish Congress, although the Northern Ireland Office operates, of course, within a different environment, dealing with British trade union legislation and a significantly different economic and social environment.
14. The TUC works in partnership with our sister centres in devolved nations within the UK, either through an integrated formal structure with TUC Cymru or through collaboration with STUC and ICTU-NI where we campaign on UK-wide issues of relevance to our members. This relationship is formalised with the STUC, TUC Cymru and Irish Congress of Trade Unions through a body known as the Council of the Isles, which brings representatives from each trade union centre on an annual basis.

## **C. ENGAGEMENT WITH THE UK GOVERNMENT ON TTI**

### **Form of engagement**

15. During the pandemic, there were ad-hoc sectoral and thematic meetings between unions and the UK Government, organised around key government initiatives. This included a series of meetings convened by the Department for Business, Energy and Industrial Strategy (“**BEIS**”) with unions and employers around workplace guidance, often including the issue of TTI. This engagement is addressed further below.
  
16. The TUC also continued to advocate for adequate financial support for workers required to isolate. For example, in a press release of 9 March 2020, the TUC made its first call for the government to establish a taskforce with unions and business to design an emergency support package, ensure public services are kept running and public sector workers are protected from the virus and to fix the UK’s sick pay rules so that every worker has financial support regardless of how much they earn [KB/4 - INQ000119103].
  
17. It was around this time, on 12 March 2020, when representatives of GMB, Prospect, POA, PCS and FDA attended a meeting with the Cabinet Office to discuss how the Government was advising departments on steps to take regarding absence, attendance and other HR matters [KB/5 - INQ000119125] [KB/6 - INQ000119136]. The unions stressed the need for Government to lead by example and that any guidance should include the need to protect vulnerable groups. They also highlighted the need for Government to ensure contractors pay staff full wages in the event the employee was sick with the virus or had to self-isolate. It was agreed that the unions and the Cabinet Office would meet once or twice a week to jointly review the situation and to amend guidance.
  
18. However, engagement on TTI was primarily with BEIS. This took the form of individual meetings and calls with ministers as well as roundtables, including the regular weekly (then monthly) meetings with Business Minister Paul Scully, and consultation on guidance for workplaces and businesses. Relevant engagement is set out in more detail below.
  
19. In addition to this, engagement between unions and ministers took place with a more sector-specific focus.

## Extent of engagement on TTI

20. As we approached the easing of the first round of lockdown and with the prospect of thousands of workplaces re-opening, on 27 April 2020 the TUC published a report, 'Preparing for the return to work outside the home – A trade union approach' [KB/7 - INQ000119244], which set out the TUC's initial thinking on how the mass return to workplaces could be managed. This included:

*"As part of the strategy for enabling a return to work outside the home, the government must publish a plan for the testing of key worker groups, with realistic targets. As we note below, those notified via the contact-tracing programme that they have been exposed to the virus and must self-isolate, if they cannot work from home, should be eligible for continued furloughing at 80 per cent of pay."*

21. This and other concerns were then raised by unions on a call with Sarah Munby, Permanent Secretary at BEIS on 19 May 2020 [KB/8 - INQ000119257]. With the Communications Workers Union highlighting the importance of guidance on 'test, track and trace' as it picked up momentum and Unite the Union ("**Unite**") warning that workers looking at a drop to statutory sick pay ("**SSP**") would refuse to take tests for fear of losing income. Both points were acknowledged by BEIS in the meeting, but this proved to largely be a listening exercise, with BEIS showing little appetite to take the unions' concerns on board and take the necessary action.

22. On 15 May 2020, 16 NHS trade unions set out their 'Blueprint for Return' and called on the UK Government and employers to work with the unions to implement the measures [KB/9 - INQ000119259]. Those measures included staff and patients/clients unlimited access to testing and rapid results, so that resumed services could stay virus free for staff and patients.

23. That same month, the TUC published a report, 'Testing & tracing for Covid-19' [KB/10 - **INQ000553600**]. The report highlighted the need for Government to work together with unions and employers to ensure an effective and fair TTI regime. It also set out a number of recommendations relating to TTI, such as the need for testing sites to be made easily accessible for workers (including those who may not be able to easily travel), for testing site opening hours to not disadvantage shift workers and for all workers (including agency, zero hours and other casualised workers) to not suffer workplace or financial detriment for attending testing. The report also made many of the points relating to financial support for

self-isolation and sick pay that are set out in the relevant section below, and drew attention to privacy concerns over the management of data obtained by tracing apps.

24. On 27 May 2020, Dido Harding wrote to the TUC setting out the plans for the implementation of the NHS Test and Trace service [KB/11 - INQ000553601]. The TUC responded by way of letter dated 8 June 2020, stating that the TUC “*would like to see concrete plans to ensure fair and equal access to testing, and support workers’ livelihoods throughout their interaction with NHS Test and Trace. Working people need to trust that they will suffer no employment or financial detriment as a result of taking part in and complying with the test and trace programme*” [KB/12 - INQ000553602]. The letter repeated many of the points made in the TUC’s testing and tracing report referenced above. Frances O’Grady met with Dido Harding at some point in the next week, however I am unable to locate any notes of that meeting. There was then a stakeholder roundtable meeting with Dido Harding on 16 June 2020, which the TUC and other unions attended. Again, I do not possess any notes of the meeting, but one outcome appears to have been a request of the TUC and affiliate unions to consider ways in which we could help test and trace target interventions into higher risk workplaces [KB/13 - INQ000553603].

25. There were further discussions between unions and BEIS in December 2020 following the end of England’s November national restrictions, a focus of which was the revision of the Safer Workplaces guidance. Again, the unions highlighted the need for the guidance to cover testing – the minutes noted the action “*Safer Workplaces to review*” [KB/14 - INQ000119264].

26. As England entered its third national lockdown, the TUC and affiliate unions met with BEIS officials on 15 January 2021. With workplace infection at its peak, the unions called for strengthening of guidance including in relation to sick pay and test and trace [KB/15 - INQ000119265]. The minutes note the following issues raised by unions:

*“There are many reports of employers telling workers to turn off the NHS Test and Trace app while at work because their workplace is “Covid Secure”. Other than for a few exceptions, this should not be happening. Government needs to make this clear to employers.*

*Unions raised concerns about the reliability of Lateral Flow Tests, which do not pick up as many positive cases as PCR tests, and as a result, false negatives are creating a sense of security which may be exacerbating outbreaks.*

*Some employers are giving workers the option of taking tests instead of self-isolating following contact via test and trace (or being in contact with a positive case in the workplace). This is not in line with NHS advice and needs clarifying.*

*Community testing centres – these aren't open outside of work hours for lots of key workers. Need quicker access to testing than home kits.*

[...]

*Some employers are refusing to pay occupational sick pay for periods of self-isolation (as opposed to sickness), forcing workers to apply for the much lower-rate SSP, which is disincentivising people from doing the right thing.”*

27. On 26 February 2021, BEIS emailed the TUC, among a range of stakeholders, stating that with the publication of the government's roadmap out of lockdown “we wanted to take this opportunity to build on the collective input and insights shared by businesses, unions and representative organisations, which resulted in our COVID-Secure guidance, which was published in May 2020” [KB/16 - INQ000119267]. In response, on 12 March 2021, the TUC submitted its comments on the guidance, drawing on evidence from our biennial trade union safety reps survey [KB/17 - INQ000119268]. These included:

*“Guidance should encourage workplace testing to occur during working hours, rather than asking workers to do this in their own time: this will help promote the take-up of testing.*

*Advice should remind employers to ensure contact tracing systems account for workers who travel between workplaces, alerting multiple sites of positive infections.*

*Guidance must remind employers to consult with trade unions in establishing a workplace testing scheme or policy.*

[...]

*Unions continue to receive reports of employers instructing workers to turn off the NHS Test and Trace app because their workplace is “Covid Secure”. Besides a few exceptions, this should not be happening, and BEIS guidance must clarify to employers that Covid control measures do not eliminate the risk of transmission but reduce it.”*

28. On 2 April 2021, as we approached the first of the four steps towards the end of lockdown, the TUC published a report setting out its view on managing the return to work at the end or easing of lockdown in a way that supports worker safety and worker livelihoods [KB/18

- INQ000119269]. In this report, the TUC again raised a number of points on testing and workplace testing policies, highlighting the following issues:

- a) Workplace testing should be done in paid work time, and time taken for testing at the request of an employer should count as working hours.
- b) Workers must be supported to self-isolate as required, with adequate sick pay.
- c) Testing schemes are not an alternative to safety control measures such as social distancing.
- d) Voluntary testing schemes must not be used as a means of financial penalising workers.
- e) Employer contact tracing systems must account for workers who travel between workplaces (for example, contractors and couriers), alerting all sites of positive infections.
- f) Besides a few exceptions, workers should not be told to turn off the NHS Covid tracing app.

29. In the same report, the TUC also expressed concerns about the lack of quality control in relation to workplace testing schemes, following reports of poor safety standards at some workplace testing sites. A lack of certification for businesses offering test kits risks a potential use of ineffective, counterfeit or expired products being sold for profit, with no sampling of the efficacy of tests.

30. Ahead of lifting of nearly all Covid restrictions on 19 July 2021, a union roundtable with BEIS on the return to work took place on 7 July 2021 [KB/19 - INQ000119270]. BEIS set out the proposed approach, confirming that the soon to be published guidance would not include anything on test and trace and, further, that there would be no consultation [KB/20 - INQ000119271]. This led to a letter from Frances O'Grady to BEIS Secretary of State Kwasi Kwarteng on 8 July 2021 [KB/21 - INQ000119272] raising concerns about the lack of consultation.

31. The views of unions were eventually sought in relation to the guidance in September 2021, with a view to informing any further evolution of the guidance over the following weeks [KB/22 - INQ000119273]. In its feedback [KB/23 - INQ000119274], provided on 27 September 2021, the TUC repeated its concerns around workplace testing that it had raised over the previous months, as detailed above.

## **Sector-specific engagement**

32. In addition to the work undertaken with BEIS on generic workplace safety, there was some engagement between unions, the Government and employers in relation to specific industries and sectors.

### Health

33. The NHS Social Partnership Forum (“**SPF**”) is a formal social dialogue grouping which brings NHS employers and trade unions together with policymakers to consider NHS workforce policy issues. SPF structures were adapted to consider the broader workforce issues arising from the Covid-19 pandemic (i.e. those not dealing with terms and conditions of employment). Fortnightly meetings of the SPF took place from April 2020. These were chaired either by the Minister (Helen Whately, then Edward Argar) or by a senior civil servant, and regular contributors to the meetings and workshops included Dido Harding on NHS Test and Trace.

34. A new SPF group was also established called the Covid-19 SPF Engagement Group. The group met weekly from 30 March to 21 July 2020, after which meetings became fortnightly. The group took forward detailed conversation arising from the wider SPF and progressed outputs like joint guidance and policy positions on specific topics, including on testing.

35. The SPF Wider Group and Engagement Groups continued to regularly meet each month. I exhibit notes of some relevant SPF meetings between March 2020 and April 2021 [KB/24 - INQ000119025]; [KB/25 - INQ000119026]; [KB/26 - INQ000119027]; [KB/27 - INQ000119029]; [KB/28 - INQ000119030]; [KB/29 - INQ000119041]; [KB/30 - INQ000119054]; [KB/31 - INQ000119067]; [KB/32 - INQ000119081]; [KB/33 - INQ000119092].

### Education

36. Throughout the duration of the pandemic the education unions attempted to engage meaningfully with the Government on TTI, as on all aspects of the pandemic. The unions were always ready to meet with ministers and Department for Education (“**DfE**”) officials. It was clear from the start that schools should have been at the forefront of efforts to control the spread of the virus. It was also clear to the unions, well before it was finally admitted by the Government in January 2021, schools were vectors for transmission.

37. Following a meeting of education unions with the Secretary of State Gavin Williamson on 28 May 2020, the DfE established a stakeholder forum which was chaired by Schools Minister Nick Gibb and included teaching and support staff unions along with other organisations. Invitations to attend were sent on 5 June 2020, with the first meeting on 10 June 2020 [KB/34 - INQ000119217] along with draft terms of reference [KB/35 - INQ000119218]. The intention was for the stakeholder group to meet every fortnight. Education unions also had some direct correspondence with Gavin Williamson, as detailed later in the statement. However, although the Government should have been keen to benefit from the expertise of education unions and their members in developing policy for schools, meaningful engagement was, unfortunately, lacking.

### Transport

38. Meetings took place between Department for Transport (“**DfT**”) ministers, including Chris Heaton-Harris, Baroness Vere and Kelly Tolhurst, and unions representing members in different transport sectors, particularly rail, aviation and local transport/buses. Around 30 of these meetings took place between March 2020 and June 2021, see for example [KB/36 - INQ000119215]. On 18 May 2020, this was supplemented by a meeting of transport unions with the Secretary of State Grant Shapps [KB/37 - INQ000119216].

39. In response to the onset of Covid-19, the railway sector also established the Railway Industry Coronavirus Forum (“**RICF**”) in April 2020. The RICF was composed of employer representatives from Train Operating Companies (“**TOCs**”) in England together with Network Rail, trade unions (the Transport Salaried Staffs’ Association (“**TSSA**”), the National Union of Rail, Maritime and Transport Workers (“**RMT**”), the Associated Society of Locomotive Engineers and Firemen (“**ASLEF**”) and Unite) and the Rail Regulator’s Chief Safety Inspector from the Office of Rail and Road (ORR). The Rail Freight sector were not involved and neither were the Welsh and Scottish TOCs or Transport for London although some of the outputs from the RICF were adopted in Scotland and Wales.

40. A number of industrywide agreements were reached about various issues, including social distancing, the use of face masks and driver training in train cabs.

## Retail

41. Some consideration was given within the Retail Sector Council. The Council was co-chaired by Paul Scully, the BEIS Minister with responsibility for retail. The Union of Shop, Distributive and Allied Workers (“**Usdaw**”) was represented on the Council. Other organisations who also sat on the Council include the British Retail Consortium (“**BRC**”), the British Independent Retailers Association, the Association of Convenience Stores, Amazon UK, Asda and Ikea. A number of online meetings were held with BEIS civil servants co-ordinating the work of the Retail Sector Council. Following the publication of the joint BRC/Usdaw guidance on reopening non-food retail, there were a number of discussions with the BRC and Government over developing advice to non-food retailers. Similar dialogue took place in Scotland, Wales and Northern Ireland with the BRC/Usdaw guidance being used as the starting point for these discussions.
42. A further version of the Usdaw and BRC guidance was published on 4 June 2020, which recommended implementation practices for non-food retail stores [KB/38 - INQ000119044].
43. Ahead of the re-opening in April 2021 of non-essential retail, Usdaw made representations to the Government on updating Government Safer Working Guidance for Shops and Branches [KB/39 - INQ000119045]. Usdaw called for encouragement for employers to pay staff in full for any Covid-related absence. Unfortunately, this was not included in the guidance, however the union continued to raise such issues with politicians and employers.

## **D. STATUTORY SICK PAY AND ISOLATION**

44. The UK Government relied upon self-isolation as a central part of its response to the pandemic. However, the effectiveness of self-isolation was hampered by the availability of adequate financial support for the very many who have limited or no right to adequate sick pay – the UK had, and still has, a low rate of SSP by international standards, only those earning a certain amount are eligible for SSP and it ordinarily only kicks in after three days of absence.
45. The TUC had been concerned about the eligibility for and level of SSP for long before the pandemic. In 2020/21, an employee could not be eligible for SSP unless earning, on

average, £120 per week (the 'lower earnings limit'). That caused around 1.8 million employees to miss out, and 7 out of 10 of those were women. It also particularly impacted young workers, those on zero-hour contracts, and certain occupations. The level of SSP was also low, at £95.85. The average worker would therefore see their weekly income fall from £504 to just under £95.85, as reported in our report, '*Sick pay and debt*' [KB/40 - INQ000119080]. The reality for many in low-paid and insecure work was that self-isolating in accordance with government guidance would leave them without the money upon which to support themselves and their families.

46. On 3 March 2020, the TUC called on the UK Government to respond to the pandemic by providing emergency support for the millions of UK workers who were ineligible for SSP [KB/41 - INQ000192239]. Frances O'Grady, had written to UK ministers warning that inadequate provision of sick pay could stop people taking public health advice, and some may feel they have no choice but to go to work. The TUC published the report, '*Sick pay for all – How the Corona Virus has shown we need urgent reform of the sick pay system*' [KB/42 - INQ000119057]. The report pointed to the fact that the earnings threshold for SSP disproportionality impacted women, those in insecure work, and young and older workers, who were more likely to be without sick pay. It also expressed the TUC view that workers should be treated as suspended from work when required to self-isolate such that they can receive full pay, and that it was vital that those required to self-isolate could access SSP.

47. The point was raised again in the TUC's March 2020 report '*Protecting workers' jobs and livelihoods - the economic response to the coronavirus*' [KB/43 - INQ000119158], which called upon the Government to act immediately by removing the lower earnings limit for qualification for SSP, and increasing the level of SSP. It was raised yet again by the TUC in our report of 23 March 2020, '*Fixing the safety net: What next on supporting working people's incomes?*' [KB/44 - INQ000192240].

48. The UK government did introduce a pilot scheme for low paid workers in which it would pay £13 a day to employees or self-employed workers told to isolate, but it only applied in areas in local lockdown and where the worker was receiving universal credit or working tax credit, and so it did not reach enough people, and did not pay enough.

49. From 28 September 2020 some people in England on low incomes became entitled to a £500 Test and Trace Support Payment where they were required to self-isolate, unable to work from home, and they or a partner received universal credit or working tax credit.

However, in a February 2021 TUC-published report, '*Sick pay that works – TUC report on the urgent need for reform*' [KB/45 - INQ000119082] the TUC highlighted the inadequacies of the Test and Trace Support Payment scheme. Freedom of information requests revealed that 70% of applications were being rejected by local authorities. There was both a mandatory and discretionary scheme, and only 10% or fewer of applications under the discretionary scheme were being granted. As the TUC stated: "*Our findings shows that the scheme is failing to financially support workers who have been required to self-isolate. This is for two reasons: the eligibility criteria for the main payment means that many workers miss out; and the lack of funding for the discretionary scheme means most applicants are rejected*". This research was repeated in May 2021 and the TUC found that there had been almost no improvement in the rejection rate, whilst only a fifth of workers had heard of the scheme [KB/46 - INQ000192241].

50. The Welsh Government introduced the Self-Isolation Support Scheme in November 2020, which provided a £500 support payment to support those needing to self-isolate. While this was welcome introduction, there were concerns about its administration and the delays – the Welsh scheme launched some time after the equivalent Test and Trace Support Payment Scheme in England, referenced above. In January 2021, the TUC Cymru set out its proposals and concerns to the Welsh Government regarding the Discretionary Assistance Fund and the £500 self-isolation support scheme [KB/47 - INQ000068475]. On 5 February 2021 the TUC Cymru argued that Wales needed a better self-isolation support scheme, referring to its research with YouGov that 21% of people in Wales said that 10 days isolating would have negative financial impact, and amongst lower paid workers that rose to 43% [KB/48 - INQ000180919]. The TUC Cymru observed that the Wales support scheme was only open to workers in receipt of certain benefits which severely limited its coverage and effectiveness, with the Resolution Foundation finding that only 1 in 8 workers qualified. It was around this time that the British Medical Journal ("**BMJ**") published research revealing self-reported adherence to self-isolation as being low, with non-adherence being associated with men, younger age groups, having a dependent child in the household, lower socioeconomic grade, greater hardship during the pandemic, and working in a key sector [KB/49 - INQ000180920]. The research suggested that practical support and financial reimbursement was likely to improve adherence.

51. Unions also continued to press the case for targeted interventions to ensure that vulnerable groups of workers were able to self-isolate in compliance with the guidance, as illustrated in the following paragraphs.

52. On 26 October 2020, the TUC, Maternity Action, the Royal College of Midwives (“RCM”) and the Royal College of Obstetricians and Gynaecologists jointly wrote to Rishi Sunak, the Chancellor of the Exchequer at the time, urging a revision to the Job Support Scheme to enable employers to reclaim 100% of the cost of a maternity suspension on full pay, ensuring that pregnant women would not be sent home on just sick pay or unpaid leave [KB/50 - INQ000119083].
53. On 8 January 2021, GMB wrote to Rishi Sunak, then Chancellor, regarding the expiration of Cabinet Office supplier relief guidance to contracting authorities [KB/51 - INQ000119084]. Procurement Policy Notes 02/20 and 04/20 were instrumental in ensuring that suppliers received continuity payment, which in turn meant that staff working in hospitals, schools, job centres, prisons and other public sector jobs would receive full pay for Covid-19 related absences. GMB expressed concerns that, following the expiry of the supplier relief, some contractors had ceased to pay staff working in hospitals for Covid-19 related absences, forcing many to attend work against Government advice. GMB called for the guidance to be reinstated with immediate effect.
54. The relationship between financial support and the ability to self-isolate was well understood by those in positions of power. In February 2021, Dido Harding told the House of Commons Science and Technology Committee that, at the point in time, around 20,000 people per day were not isolating in the way required and that one of the reasons for this was people not being able to afford to isolate, they had to go out and work [KB/52 - INQ000553604].
55. On 16 April 2021 the TUC published a report, ‘*Covid-19 and Insecure Work*’ [KB/53 - INQ000119085]. It described again how the system for SSP was failing workers, and particular those in insecure work. The report observed that insecure workers were nearly 10 times more likely to say they receive no sick pay compared to secure workers. It provided a stark example of how inadequate employment protections compel insecure workers to continue working throughout the pandemic. The report also notes how 1 in 6 Black and minority ethnic workers are employed on insecure terms and conditions, compared to 1 in 10 white workers – issues with sick pay and self-isolation are therefore likely to have disproportionately affected Black and minority ethnic workers. This context has to be borne in mind when considering the issues faced by specific sectors in relation to TTI, as set out below.

## **E. EFFECTIVENESS OF THE TTI SYSTEM AND SUPPORT FOR THOSE REQUIRED TO ISOLATE**

56. TTI is an essential tool in restricting the spread of the virus, reducing infections and deaths, and minimising disruption to society and the economy. However, availability of and access to testing was an issue in many sectors. Furthermore, even where there was access to testing, the TTI system was often undermined by the poor support provided for those required to isolate. This was compounded by unclear, rushed and ill-informed guidance from Government, leaving many workers in the dark or confused as to steps they should be taking to test and/or isolate. Unions attempted, where possible, to fill the vacuum of Government guidance and leadership, but the fact is that workers throughout the UK were often left confused as to the right course of action and the lack of support provided through the TTI system meant many suffered financially or risked their health and that of their colleagues, families and the wider public by attending work when potentially infected with the virus.

### **Health**

57. The necessity of testing in the health service was perhaps better understood by the Government when compared to other sectors. The existence of stakeholder engagement structures, such as the SPF, also meant that stakeholders, including unions, were better informed and had better access to decision-makers. However, there were still issues with TTI that affected the sector, most notably in the early stages of the pandemic. It was clear from the start of the pandemic that testing capacity was very low, so mass testing of NHS staff was not an option at the start of the first lockdown. Once testing capacity was expanded, health unions raised issues about the access to and speed of tests, as many people had to travel to remote testing centres. SPF meeting minutes, exhibited earlier in this statement, show unions highlighting TTI issues consistently – for example, concerns around the delayed results from testing women on admission to maternity units, rather than in advance [KB/25 - INQ000119026]; the infection prevention and control risk posed by staff, particularly contractors, not receiving full pay for self-isolation [KB/26 - INQ000119027]; the accuracy of test results [KB/28 - INQ000119030] [KB/29 - INQ000119041]; difficulties with the NHS app [KB/31 - INQ000119067]; and differing rules on isolation for staff compared to the public (and a lack of consultation on this) [KB/32 - INQ000119081].

58. Furthermore, in April 2020, the UNISON submission to the House of Commons Health & Social Care Committee queried why the NHS had opted to use “super-labs” rather than attempting to use or expand existing local capacity in the NHS [KB/54 - INQ000553605]. UNISON also highlighted that many NHS staff had ended up self-isolating rather than driving the long distances often required to get themselves tested (with some being turned away when they arrived [KB/55 - INQ000553606]).
59. Also in April 2020, UNISON pointed out that “*Speed is of the essence with results, to ensure staff who’re negative can get back to treating patients, and that tests remain valid. Locations, wait times and frequency of testing are among the many issues that need urgent attention*” [KB/56 - INQ000553607]. Furthermore, NHS staff were raising concerns about delays and errors at Covid testing drive-in centres [KB/57 - INQ000553608]. The RCM highlighted the impact that lack of testing was having on service provision, with the RCM’s Chief Executive, Gill Walton, commenting that month: “*We need more midwives to be tested at a much quicker rate than is currently happening so those that our self-isolating can get back to work as soon as possible. Even before the pandemic, maternity services were struggling with staff shortages. Now around a fifth of midwife roles are unstaffed which understandably impacts on service provision, including home births and antenatal and postnatal appointments*” [KB/58 - INQ000280550].
60. Access to regular testing and rapid results formed one of the key demands of the joint NHS unions’ ‘*Blueprint for Return*’ in May 2020 [KB/9 - INQ000119259], stating: “*Give staff and patients/clients unlimited access to testing and rapid results, so that resumed services can stay virus free for staff and patients.*”
61. Although issues regarding TTI, particularly the difficulties around sick pay and the ability to self-isolate set out earlier in this statement, continued throughout the pandemic, as we moved through 2021 it is fair to say that other factors impacting those working in the health service, such as access to appropriate personal protective equipment (“PPE”), the staffing crisis and burn-out, were the focus for those involved.

### **Social care**

62. Unions identified the importance of testing in the care sector from early in the pandemic. In April 2020, the TUC set out the ‘five things that social care workers need’ [KB/59 - INQ000525616] and one of these was a clear deadline for making testing available to all in the care sector who need it. UNISON attended several Department of Health and Social

Care (“DHSC”) testing meetings (also referred to as Task and Finish Group meetings) between April and December 2020, the notes of which we provide [KB/60 - INQ000525617] [KB/61 - INQ000525618] [KB/62 - INQ000525619] [KB/63 - INQ000525620]. Testing was also raised as an issue at various DHSC Workforce meetings, referred to in the paragraphs below.

63. The recurring issues being raised at these meetings were around access to testing for care workers, particularly uncertainty regarding agency and domiciliary care workers, and the fear of financial consequences for testing positive.

64. UNISON were told at a DHSC Workforce meeting in April 2020 that every care worker that needed a test would get a test [KB/64 - INQ000119106]. However, providers were already pointing out that there were different testing arrangements for workers being put in place in different parts of the country, which was causing difficulties, with some workers being tested every day, others only once or twice a week and a number only being tested if they had symptoms. Various questions and concerns around testing in adult social care were then raised at the Task and Finish Covid-19 Testing Sub-Group meeting a few days later [KB/61 - INQ000525618], including whether agency workers would be eligible for testing and the accessibility and communication regarding different referral routes for care workers and domiciliary workers.

65. Indeed, the April 2020 poll conducted by Survation on behalf of GMB [KB/65 - INQ000525604] revealed that 99% of all care workers surveyed had not been tested for Covid-19.

66. In May 2020, at a DHSC workforce meeting, providers voiced their frustration with the testing regime and the lack of priority afforded to care workers [KB/66 - INQ000525622]. Around the same time, members were raising concerns with GMB – one care home worker explained that there was uncertainty over testing of agency workers and a lack of testing for new residents and existing residents who are admitted to hospital but then return [KB/67 - INQ000525623]. GMB wrote to Matt Hancock and Helen Whately in June 2020, demanding full pay during self-isolation for all NHS staff, NHS contractors and care workers, and it warned that “*The track and trace programme in its current form will just spread either poverty or infection*” [KB/68 - INQ000553619].

67. Then, in August 2020, DHSC assessed that Care Quality Commission (“CQC”) inspectors did not meet the criteria for weekly asymptomatic testing. In GMB’s view, by not including

CQC inspectors in the routine testing programme, care home staff and residents were being put at risk, with inspectors potentially spreading the virus in those settings [KB/69 - INQ000525624].

68. At a DHSC testing meeting on 18 August 2020, UNISON shared their latest survey data on testing of care workers [KB/70 - INQ000119062]. 18% of all care home workers had still not been tested once for Covid-19 and 46% of those who had been tested had only been tested once. This meeting also saw discussion of whether visiting professionals to care settings (CQC inspectors, occupational therapists, social workers and so on) should be subject to the same level of testing as staff. There was a lack of clarity on the issue, so the DHSC launched a pilot scheme where visiting professionals would be tested on a weekly basis in Northamptonshire, Cambridgeshire and Peterborough over a 4-week period to try to gain an idea of the numbers involved and the nature of testing required. Due to capacity issues, DHSC decided that the pilot would only involve visiting professionals whose role requires them to come within 1 metre of residents, therefore, again, excluding CQC inspectors. This was not received well – care providers were unhappy given the emphasis on restricting care worker movement between homes and reports that some homes were refusing to grant CQC inspectors entry, whilst UNISON members at the CQC were also upset that they were not being tested each week. DHSC did acknowledge that it was a problem that CQC inspectors were not being tested regularly, but said it was all down to problems with capacity in the sector and that they would revisit the issue urgently.

69. Testing in care homes became a significant issue again in September 2020. GMB was hearing of test results taking a week to come back and there was uncertainty around whether a member of staff wearing full PPE who comes into contact with a colleague or resident who had tested positive for Covid-19 should be considered as a 'contact' for the purposes of contact tracing and isolation [KB/71 - INQ000525625]. This uncertainty was still an issue in December 2020, with GMB hearing of care staff in Wales being told to turn off test and trace on their phones whilst on shift, on the assumption they would be wearing the 'correct' PPE [KB/72 - INQ000525626].

70. In December 2020, GMB wrote to Public Health Wales, expressing concern that domiciliary care staff were not included in the regular testing programme that was in place for care staff in residential homes [KB/73 - INQ000525627]. GMB sought clarification as to why there was this distinction between the two specific work groups within the care

sector. GMB sent an identical letter to Vaughan Gething, Minister for Health in the Welsh Government at the time: [KB/74 - INQ000525628].

71. At a Task and Finish Group meeting on 22 February 2021, concerns were raised regarding the low number of PCR results being recorded by home care workers in comparison to the number of kits sent out across the sector [KB/75 - INQ000525629], [KB/76 - INQ000525630]. UNISON pointed out in the meeting that care workers were worried about not being paid if they tested positive, particularly homecare staff, which DHSC agreed with and explained that the use of the Infection Control Fund was at the discretion of employers. We address the Infection Control Fund further below.
72. Unite produced a presentation for the Social Care Forum, which set out many of the issues with social care pay, terms and conditions described above – more than 70% of care workers earn less than £10 per hour, 28% of care workers earned the National Living Wage in 2019 and 50% of domiciliary care workers are on zero-hours contracts [KB/77 - INQ000525632]. It also provided results from a Unite survey that revealed 37% of care workers did not feel safe at work, 14.5% had had to buy some of their own PPE, 23% reported that their employer did not have a procedure in place for situations where workers and service users had Covid-19 symptoms, 30% did not have access to safe and clean washing facilities while at work and 37% were not paid if they self-isolated or were off sick.
73. In Wales, the lack of collective bargaining and formal structures for employer engagement in social care was determined as a key factor that has resulted in significant issues for the sector, including regarding PPE and workers choosing not to self-isolate as they would only be eligible for SSP (see the BAME Covid-19 Advisory Group socio-economic subgroup report of June 2020 [KB/78 - INQ000227599]). GMB engaged in correspondence with the Minister for Health and Social Services in the Welsh Government across March to July 2020, on the issue of sick pay in the care sector and its impact on self-isolation (including the Infection Control Fund referred to below), and called for the Welsh Government to ensure that social care employers commit to full and normal pay from day one of sickness [KB/79 - INQ000180891] [KB/80 - INQ000180893] [KB/81 - INQ000180894] [KB/82 - INQ000180895]. Eventually, at the end of October 2020, the Welsh Government did announce that social care staff would be eligible for full sick pay.
74. UNISON members in the care sector were also reporting that the low level of SSP was putting pressure on them to return to work when they should be self-isolating, which UNISON raised with DHSC in April 2020: [KB/83 - INQ000525633]. This was highlighted

again by the CQC and others at a DHSC Workforce meeting in June 2020, with a significant number of care workers not wanting to be tested mainly because they feared the potential loss of income if found to be positive [KB/84 - INQ000525634].

75. Campaigning and lobbying by UNISON eventually led to the Government setting up the flawed Infection Control Fund, which was intended to provide the funds for the sector to cover pay for self-isolation. This was supposed to deliver on the Health Secretary's pledge to "*ensure that when social care staff need to be away from work for infection control purposes, they are not penalised for doing so*" [KB/85 - INQ000339424]. However, the social care sector, with tens of thousands of different employers, was not well understood by both officials and ministers and, as a result of this fragmentation, interventions were slow to formulate and then to permeate. For example, there is evidence that care home employers refused to take government money offered through the Infection Control Fund (held at local authority level on behalf of DHSC) to boost sick pay for staff for fear that this would set a precedent and expectation of sick pay above the statutory minimum after the pandemic receded. Failure to pay staff to self-isolate was acknowledged by DHSC as a significant reason as to why the virus continued to spread in the care sector in June 2020 [KB/86 - INQ000000000]. Exhibited to this statement are several emails and documents detailing these issues between June and December 2020 [KB/87 - INQ000119058] [KB/88 - INQ000119060] [KB/89 - INQ000119061] [KB/70 - INQ000119062] [KB/90 - INQ000119063] [KB/91 - INQ000119064] [KB/92 - INQ000119066] [KB/93 - INQ000119068] [KB/94 - INQ000119070] [KB/95 - INQ000119072] [KB/96 - INQ000119073] [KB/97 - INQ000119075] [KB/98 - INQ000119076] [KB/99 - INQ000119077] [KB/100 - INQ000119078] [KB/63 - INQ000525620].

76. Further, on the day the Infection Control Fund was launched, UNISON expressly warned the Secretary of State, Matt Hancock, of the danger of social care providers using Fund money for purposes other than infection control/support for staff required to isolate, with there being no mechanism in place for local councils to enforce or monitor the use of funds provided [KB/101 - INQ000525637]. Helen Whately replied to this letter on 10 June 2020, stating that local authorities must ensure that funding is allocated on condition that the recipient care provider uses it for infection control measures and take reasonable steps to recover the money if not [KB/102 - INQ000525547].

77. However, a survey of UNISON social care members in July 2020 found that more than half of care workers (52%) said their employer was still paying less than £100 a week or nothing at all if they needed to shield or self-isolate [KB/103 - INQ000339425] [KB/104 -

**INQ000525548**. It is noticeable that the union's January 2021 survey of Black workers in social care [KB/105 - INQ000339477] showed the numbers of Black care workers dropping to either SSP or no pay were even higher: 57% across all care, 69% in residential care, 73% in domiciliary care. These figures completely undermined government claims to have dealt with the issue of sick pay using the Infection Control Fund and pointed to enduring problems for Black workers. As UNISON warned when the Fund was launched, it relied too heavily on social care providers positively engaging with the scheme and councils were given no additional resources to police implementation. Indeed, in July 2020, GMB, the Royal College of Nursing and UNISON all fought to ensure that at least 15,000 care workers employed by Four Seasons Health Care at 185 facilities received full pay for any coronavirus-related absence, where they had previously been struggling on SSP [KB/106 - **INQ000525549**].

78. In Wales, in November 2020 the Welsh Government did introduce the Covid-19 Statutory Sick Pay Enhancement Scheme which ensured that social care workers who were required to self-isolate or stay home due to Covid would receive full pay. The scheme was brought to an end in August 2022. The scheme was important and reflected the Welsh Government's understanding, in consultation with unions, of the importance of putting in place proper sick pay for social care workers.
79. The impact for a care worker not receiving this financial support was obvious. A GMB survey, carried out in July 2020, showed that 81% of the respondents across the UK would be forced into work if they became ill on SSP and a further 80% would be forced to consider borrowing off friends and family or taking on debt to make ends meet [KB/107 - **INQ000525550**]. A YouGov poll commissioned by the TUC Cymru in June 2022 revealed that two thirds of people who had been sick in the preceding 12 months had carried on working [KB/108 - INQ000180923].
80. At a DHSC workforce meeting in July 2020, one care provider suggested that the data collected by DHSC on the use of the Infection Control Fund had been misinterpreted and that actually most employers were paying staff; **KB/109 - INQ000119060**. They asserted that the main barrier to employers passing on money to care workers under the Infection Control Fund was the worry that they would then be sued by workers who had to self-isolate before the Fund came into being and therefore received no money. They went on to state that bringing in comprehensive sick pay would be problematic as frontline staff would abuse it and ring in sick after a 'heavy night'. This spoke volumes about the attitude of some care providers towards social care staff and demonstrates why UNISON had

raised concerns regarding the lack of any mechanism to enforce or monitor the use of funds by providers under the Infection Control Fund. Again, at a November 2020 Task and Finish Group meeting, UNISON had raised the issue of how the DHSC were ensuring providers complied with the intended purpose of the Infection Control Fund [KB/110 - INQ000525552]. The DHSC explained that they were using capacity tracker data to try to gain clarity on non-compliance, as well as working with the CQC in terms of inspection tools.

81. Despite the various assurances, union fears came to pass. In December 2020, one employer stated in a letter to UNISON that they had directed the funding under the Infection Control Fund at one care home to cover “*unavoidable and necessary costs*”, which did not include pay during self-isolation [KB/111 - INQ000525553]. This brazen admission by one of the largest social care providers in the UK laid bare the inherent failings of the Fund. Another care provider stated in an email that they would only pay SSP as “*Local Authorities have given various areas [for] which the Infection Control Grant can be used and as an organisation, we are not using it to pay staff their full wages whilst isolating*” [KB/112 - INQ000581721]. A third provider sent an email to a member of staff stating that as per company policy and the staff member’s contract, they were only required to pay SSP [KB/113 - INQ000525555]. They went on to explain that different local authorities had funded different amounts to care companies and “*it may be that your local authority has not funded enough to cover certain situations (such as wage losses) [...] However we have been instructed to only pay SSP regarding Covid*”. Unions also received reports from a number of members working in social care whose employer refused to pay full wages to staff isolating, despite the existence of the Infection Control Fund [KB/114 - INQ000525556], [KB/115 - INQ000525557].

82. Allied to non-compliance was the uncertainty around the exemption from self-isolation for double-vaccinated social care staff that was introduced in July 2021. UNISON attended a stakeholder session with DHSC and others on 22 July 2021 and the impression was that DHSC was making it up as they were going along [KB/116 - INQ000525558]. Concerns were raised that there was insufficient clarity regarding when and how the policy would apply and whether social care staff would still be paid if they were told by their employer not to isolate but refused.

83. Such were the failures of the Infection Control Fund that, in December 2021, UNISON wrote a letter to Dame Meg Hillier, Chair of the Public Accounts Committee, asking if Dame Hillier would consider launching an investigation into the creation of, and spending via, the

Infection Control Fund: [KB/117 - INQ000525560]. UNISON cited emerging evidence that care providers in receipt of Fund money may have seen their profits inflated by access to the fund and reports from its members that it remained a widespread practice to expect care workers to lose hundreds of pounds per week in wages if they needed to self-isolate.

84. It is clear from the above that the Infection Control Fund and the lack of support offered to care workers was a significant issue in the pandemic. It is likely that the absence of sick pay schemes, or at least effective schemes, and the knock-on effect of staff not self-isolating when sick, contributed to Covid-19 outbreaks amongst residents in care homes. The DHSC's own Vivaldi study, carried out between 26 May and 20 June 2020, concluded that "*There is some evidence that in care homes where staff received sick pay, there are lower levels of infection in residents*" [KB/118 - INQ000346701].

## Education

85. The impression was, and remains, that the Government, despite the evidence available, underestimated the significance of children and schools in transmission and community spread, and the harm caused to children by infection of Covid-19, particularly when compared to the approach adopted in other countries. It is perhaps because of this that the Government sought to 'reopen' schools as quickly and fully as possible, without sufficient protective measures, such as an effective TTI system, in place, and failed to plan for key pressure points (such as in September 2020). As the article '*Covid-19 in the UK: policy on children and schools*', published by the BMJ, states [KB/119 - INQ000573888];

*"Given the importance of pre-symptomatic transmission, and the high levels of asymptomatic infection in children, frequent testing was important to reduce spread. However, many parents caring for children at home faced potentially unaffordable costs as there was limited financial and practical support for isolation, providing little incentive for voluntary routine testing. The initial roll out of asymptomatic testing was poorly planned with little involvement of teachers and parents. Uptake of testing reduced steadily to only 21% of secondary school children registering tests in May-June 2021. Testing was never made available to primary school children, unlike in other European countries (eg, Austria), where accessible testing (eg, saliva tests) for young children was prioritised."*

86. The priority for education unions throughout the pandemic was to ensure the safest possible working and learning environment for staff and students, by keeping infection levels as low as possible, which would at the same time ensure the best possible continuity

of education for their students. Arrangements for TTI evolved over the course of the pandemic but schools were always at the forefront of measures to control the spread of infection. Unfortunately, those working in the sector experienced significant issues when it came to TTI, namely a lack of access to testing (at least initially), inadequate support for self-isolation (particularly in the case of outsourced cleaning staff, caterers and supply teachers) and the unreasonable burden placed on staff to establish contact tracing and mass testing arrangements in schools at very short notice.

87. At the outset of the pandemic in April 2020, the DfE produced a list of different action areas and the relative priority that should be given to each [KB/120 - INQ000553649]. The priority levels were: A – Immediate, B – Near immediate, C – Reiterate and D – Longer term. The availability and accessibility of testing was assigned priority C. However, it felt that the Government’s top priority was to seek to fully reopen schools, and relax protective measures, at the earliest possible opportunity, without much thought to the longer-term implications of their decisions.
88. At the start of the first lockdown, the National Education Union (“NEU”) understood the importance of testing for education staff and more widely, calling for it to be made an absolute priority as it was crucial for the safe and efficient functioning of the education service so that schools could remain open for those that needed them. NEU expressed these concerns by way of letter to the then Prime Minister, Boris Johnson, and the Secretary of State for Education, Gavin Williamson MP, on 14 April 2020 [Exhibit KB/121 INQ000119128], asking for confirmation as to whether the Government was developing plans for extensive testing and contact tracing in society as a whole and the timeframe for such plans (emphasising the necessity for those plans to be in place well before schools are reopened). In May 2020, NEU wrote again to Gavin Williamson, raising similar issues [KB/122 - INQ000553655]. Meanwhile education unions published several press releases and statements, calling for priority access to testing for all school staff (not just teachers) and a fully functioning TTI system to be in place in time for schools opening and to keep schools open [KB/123 - INQ000553652], [KB/124 - INQ000553653], [KB/125 - INQ000553654], [KB/126 - INQ000553655], [KB/127 - INQ000553656]. The same applied to further education colleges – in May 2020, unions set out five tests that Government and colleges needed to meet before staff and students could return, one of which was comprehensive access to regular testing for students and staff, with isolation for all suspected cases, to ensure colleges did not become hotspots for Covid-19 [KB/128 - INQ000553657]. The unions called for protocols to be in place to ensure testing across

whole college sites and other non-college work-based learning sites whenever a confirmed case of Covid-19 occurred.

89. Higher education unions were making similar pleas in September 2020 in relation to universities. In a letter to Michelle Donelan, the then Minister for Higher Education, the unions expressed concern about the state of the test, trace and protect systems across the UK, calling for ready access to testing for universities, to keep campuses as safe as possible and to minimise disruption [KB/129 - INQ000553658]. The letter also highlighted the importance of full sick pay or normal wages for those required to isolate, to support compliance with the Government's rules on self-isolation and reduce the risk to all students and staff.

90. Even as late as January 2022, UNISON was having to continue to call for Government action to ensure school support and nursery staff had access to lateral flow tests, following the results of a survey showing 32% did not have enough tests to carry out the recommended twice-weekly checks, thereby putting staff and children at risk and contributing to high absence rates [KB/130 - INQ000553659]. This was a recurring theme: unions highlighting the need for effective TTI mechanisms to be in place, particularly in advance of any decision being taken on the full reopening of schools, with Government failing to take note and often making rushed, last-minute decisions, compromising the safety of pupils and staff and contributing to disruption to education. As the Institute for Government's August 2021 report, 'Schools and coronavirus: The government's handling of education during the pandemic' set out [KB/131 - INQ000231401];

*"Throughout 2020, not just the prime minister but education ministers and in particular Gavin Williamson, the education secretary, seemed determined to appear to be in control of events that they could not in fact control. There were repeated assertions that this or that would happen – that test kits would be available in schools in September, for example, or that schools absolutely would reopen in January 2021, or that exams would definitely be held in 2021 – up to the point where they did not happen, forcing last-minute U-turns."*

91. Throughout the pandemic, unions with members in the education sector, including GMB, the National Association of Schoolmasters Union of Women Teachers ("NASUWT"), NEU, UNISON and Unite regularly issued joint safety checklists to their members setting out measures that, if implemented, would help reduce the spread of the virus (see [KB/132 -

INQ000553661]; [KB/133 - INQ000553662]; [KB/134 - INQ000553663]; [KB/135 -

INQ000553664]; [KB/136 - INQ000553665].

These checklists emphasised the

importance of TTI measures to employers in the day-to-day operation of education workplaces. They tried to fill the voids of guidance left by Government, for example urging school leaders to strongly encourage testing for all staff and pupils at least twice weekly, and where possible daily, including registering of test results. Some checklists amplified Government advice where it was deemed insufficient. For example, Government advice in early 2022 stated that people who were fully vaccinated, or aged under 18, and identified as a contact of someone with Covid-19, should take a lateral flow test every day for 7 days to help slow the spread. The unions, in response to the new Omicron variant and surging cases in schools, went further, advising that in addition to this, siblings and other household contacts should be encouraged to stay at home until a negative PCR test had been received, to protect other pupils, staff and families, and to limit disruption to face-to-face learning.

92. In Summer 2020, in preparation for the return to school in the Autumn term, the checklist asked members to check whether their school had adopted satisfactory control measures to engage with the NHS Test and Trace process, including whether children sent home with symptoms would not return until the end of the isolation period or a negative test result was provided [KB/132 - INQ000553661]. Furthermore, on 11 September 2020, NEU wrote to the Prime Minister urging the Government to improve the availability of testing and the efficiency of the 'test, track, trace' programme, both to keep staff safe and help schools stay open. This followed reports from head teacher members that staff were being told they needed to travel long distances to obtain a test. NEU called on the Government to ensure regular asymptomatic testing of school and college staff, and older secondary students, especially in areas of higher incidence, explaining that this would ensure cases were caught more quickly and transmission networks disrupted, as well as providing reassurance.

93. However, these concerns were not heeded and by 20 September 2020 a critical point had been reached. NEU wrote again to the Prime Minister, pointing out that the Government had failed to ensure that sufficient testing was available to meet the entirely predictable need when 12 million children and staff returned to school [KB/137 - INQ000553666]. This was despite Gavin Williamson having written to heads on 7 September 2020, promising that all staff and pupils would have access to testing if one of them should develop Covid-19 symptoms. NEU highlighted that this failure was causing three related problems:

- a) schools did not have the information to act quickly to stop viral spread;

- b) many children were out of school who would have been negative if tested but could not obtain a test; and
- c) many school staff were also at home waiting for a test which may well have been negative.

NEU called for the situation to be addressed as a matter of urgency, urging children and staff to be given high priority in the testing regime and recommending a move towards asymptomatic testing of staff and older pupils.

94. These issues with testing put an immense strain on schools, impeding their ability to deliver education, and it only got worse as the term progressed. The Daily Mail online took up the story on 17 September 2020 [KB/138 - INQ000553667], highlighting that the lack of testing capacity meant that 25,000 teachers were having to self-isolate only two weeks into the new term, along with thousands of pupils.

95. In October 2020, education unions issued a further checklist to schools to support them to remain safely open, setting out enhanced measures that schools should introduce [KB/133 INQ000553662]. These included ensuring full pay for staff who had to self-isolate, and permitting and encouraging staff (and pupils aged 16 and over) to use the NHS Covid app in school, including in classrooms. This followed anecdotal evidence that staff were being told not to use the app in schools. NASUWT had received similar reports regarding schools instructing staff not to use the app in an attempt to minimise levels of absence, and raised this with the DfE [KB/139 - INQ000553668]. The DfE undertook to raise the issue with Public Health England (“PHE”).

96. In Autumn 2020, schools were given significant responsibilities for contact tracing in respect of those children and staff who had tested positive for Covid-19. Then, on the last day of term before the Christmas break, school leaders were told by Government that they must organise volunteers and parents, supported by staff, to undertake mass testing of secondary school pupils in the first week of the next term. This all placed an unreasonable burden and unmanageable pressures on staff, who by this point in time were exhausted and already struggling to manage the demands of the pandemic, particularly in the face of significant staff shortages. NASUWT raised the former with the DfE at a stakeholder advisory group meeting on 11 November 2020 [KB/140 - INQ000497857], but no effective action was taken until the responsibility was ultimately removed from schools. Meanwhile, education unions warned that the mass testing of secondary school pupils would not be deliverable by the start of the next term [KB/141 - INQ000553670]. NEU made clear its

concerns to Gavin Williamson by way of a letter dated 17 December 2020, describing the proposals as “*inoperable*” [KB/142 - INQ000553671]. NEU sent a further letter to both Gavin Williamson and Boris Johnson on 21 December 2020, again expressing concerns that an operable system of mass testing would not be in place for the new term on 4 January 2021 [KB/143 - INQ000553672]. The letter proposed three steps to reduce disruption in the Spring term, one of which was to ask the local Directors of Public Health to set up the system of mass testing, supported by the Government with a national advertising campaign to for volunteers to assist, with school staff working alongside them to ensure testing took place. This was in contrast to the Government’s proposals of effectively passing all the responsibility to schools and school staff.

97. TTI issues in the education sector persisted throughout the rest of the pandemic, due to the Government’s confusing approach, its lack of action and proper engagement with stakeholders, and, where it did take action, rushed and ill-considered processes. For example, as part of the proposed mass testing programme, the DfE sought to permit close contacts of positive cases to remain in school instead of ensuring they self-isolated. NEU issued a press release on 15 January 2021, pointing to the Medicines and Healthcare Products Regulatory Agency’s refusal to formally approve the Government’s plan [KB/144 - INQ000553673]. (no longer available on NEU’s website). Less than a week later, the Government paused the rollout of daily testing for contacts in schools following new advice from PHE, a U-turn welcomed by NEU but one that was still bound to cause confusion for parents, staff and pupils and a reflection of the repercussions of rushed policy without proper engagement with the profession [KB/145 - INQ000553674].

98. Indeed, in March 2021, the DfE and PHE went on to launch a trial in some secondary schools to evaluate the effectiveness of the use of daily contact testing as an alternative to self-isolation. There was some engagement with stakeholders, which was welcome, however concerns remained and were raised by UNISON with the DfE in correspondence throughout March to June 2021, including the lack of transparency, the risk to clinically extremely vulnerable staff and pupils in schools participating in the trial and the accuracy of lateral flow tests when carried out by non-experts [KB/146 - INQ000553675]; [KB/147 - INQ000553679]; [KB/148 - INQ000553680]; [KB/149 - INQ000553681]; [KB/150 - INQ000553682]; [KB/151 - INQ000553683]. Concerns about key aspects of the trial were also raised by a group of scientists and health professionals in an open letter to Gavin Williamson in June 2021, published in the BMJ [KB/152 - INQ000474908]. Co-signed by a number of organisations, parent groups and MPs, the letter set out serious ethical and scientific concerns with the trial, including the risks of running it at a time when the more

transmissible and severe Delta variant of the virus was becoming dominant in schools, and called for it to be suspended immediately.

99. It is worth noting that in March 2021, the joint union checklist was still urging members to check that their schools were engaging with the NHS Test and Trace process, including whether staff were being encouraged to use the NHS app and self-isolate when notified, whether the school had established workable arrangements for the lateral flow testing system to identify asymptomatic cases and if all staff (including outsourced staff such as catering and cleaning staff) would receive full pay when required to self-isolate [KB/153 - INQ000553685]. Similar points were included in the May 2021 checklist in advance of the fuller opening of schools [KB/134 - INQ000553663]. It was around this time that the National Association of Head Teachers (“NAHT”) was also calling for school leaders to be released from the burden of running the test and trace system in schools, following data that showed they had spent on average 44 additional hours on it since the start of the school year – the equivalent of 7 extra school days [KB/154 - INQ000553686].

100. Frustrations around testing and contact tracing in the education sector continued throughout the rest of 2021. On 1 July 2021, NEU, NAHT and the Association of School and College Leaders (“ASCL”) jointly wrote to Gavin Williamson, expressing their continued dismay with the Government’s handling of TT [KB/155 - INQ000553687]. The letter pointed to schools and staff, particularly primary schools, being in the dark as to testing arrangements for the new term in September and fears over an even further increase in the burden of public health responsibilities being placed on schools. NEU, NAHT and ASCL asked the Government to commit to the following actions:

- a) direct NHS Test and Trace to provide more support to schools and colleges with contact tracing and for this support to be in place for the beginning of the summer holidays; and
- b) limit the role of schools and colleges in the organisation and running of asymptomatic testing sites, which should instead be carried out by an appropriate public health body.

101. Gavin Williamson did subsequently confirm in a statement in the House of Commons that NHS Test and Trace would be taking over from headteachers the role of contacting close contacts of children who had tested positive [KB/156 - INQ000553688], but concerns remained.

102. The messaging from Government continued to confuse, with Stay At Home guidance issued on 13 August 2021 stating that those below the age of 18 years and 6 months would not be required to self-isolate if they live in the same household as someone who develops Covid-19, suggesting they could still attend school. This, when read in conjunction with DfE guidance and FAQs that had been issued to all education settings in June 2021, meant it was unclear whether tracing of close contacts in such settings would continue. The DfE's FAQs for schools stated that: "*Contacts in an educational setting will be traced if the positive case specifically identified an individual as having close contact which will normally have occurred in a social setting e.g. sleepovers.*" However, the guidance from PHE in place at that time did not make a distinction between contacts in a social setting and those that occurred on school sites given that the location at which a contact occurred would make no difference epidemiologically to the risk of infection, especially if both took place indoors. Close contacts on school sites did not result in advice to seek a PCR test, increasing the risk of infection. Further, the risk of contagion was increased by a lack of any requirement on NHS Test and Trace, a learner or their family to inform schools who the close contacts of someone testing positive might have been. UNISON sent a letter to Gavin Williamson on 18 August 2021 raising these points and seeking urgent clarification, given the imminent start of the new term [KB/157 - INQ000553689].

103. Covid-19 cases were indeed high during the Autumn term, with the Office of National Statistics stating in October 2021 that those "*working in the education sector continued to be more likely to test positive in comparison with those working in other sectors; this is likely related to the continuing higher infection levels among school-aged children*" [KB/158 - INQ000553690]. As a result, on 16 November 2021, UNISON, NEU, NASUWT, Unite and GMB wrote jointly to the then Secretary of State for Education, Nadhim Zahawi, proposing measures to address the high infection levels across the education sector [KB/159 - INQ000553691]. One of these proposals was for sibling contacts of positive cases to stay at home pending a negative PCR test, as was the case in Scotland and, indeed, several local authorities had already taken unilateral action along those lines. Despite NEU repeating this call in press releases on 8 December [KB/160 - INQ000553692] and 13 December 2021 [KB/161 - INQ000553693], it fell on deaf ears and was never taken up by the Government as part of the TTI regime.

104. In February 2022, the Prime Minister announced that free symptomatic Covid testing for the general public would no longer be available after the end of March. This had significant implications for the education sector, as removing the ability for pupils and staff

to access free tests if they have potential Covid symptoms was likely to lead to people either attending school or college when they had Covid, therefore transmitting to others, or to them staying off school with symptoms that may not be Covid-19 at all. GMB, NAHT, NEU, UNISON and education organisations jointly wrote to Nadhim Zahawi on 9 March 2022, expressing their collective concern and urging the Government to continue to make PCR testing available to all those attending or working in education settings with potential Covid symptoms after the end of March [KB/162 - INQ000553694].

105. By the time of the joint-union Spring/Summer 2022 checklist (referenced above) [KB/136 - INQ000553665]. Government advice was that, in most cases, staff and pupils were no longer expected to continue taking part in regular asymptomatic testing and were instead advised to follow testing advice for the general population. The joint unions believed that the Government was withdrawing free testing earlier than it should have done, and, alongside public health advice, recommended asymptomatic testing for as long as tests remained freely available. In addition, the unions continued to urge leaders to inform staff, parents and students of any positive cases, as soon as possible, without identifying any individuals directly or indirectly, so people could follow the relevant public health advice that applied to them. On isolation, despite the removal of the legal requirement for positive cases to self-isolate, public health advice was that this should continue to happen, so the unions strongly urged schools to require anyone, staff or pupil, who tests positive, or with suspected Covid-19, to stay at home and avoid contact with other people, so as to reduce the risks of in-school transmission and wider disruption to education.

Support staff, supply staff and agency workers

106. Support and supply staff faced particular issues in relation to TTI during the pandemic, they were hugely impacted by the requirement to self-isolate with inadequate support provided. NASUWT sent letters to Gavin Williamson, Rishi Sunak (the then Chancellor of the Exchequer) and Thérèse Coffey (the then Secretary of State for Work and Pensions) on 19 October 2020, expressing concerns over this and highlighting the importance of agency workers being able to access some level of financial support from the Government [KB/163 - INQ000553695]; [KB/164 - INQ000553696]; [KB/165 - INQ000553697]. NEU made similar points to Gavin Williamson by way of letter dated 2 November 2020 [KB/166 - INQ000553698]. However, any responses on the issue merely pointed to SSP and the Test and Trace Support Payment, without seeming to fully grasp the issue at hand [KB/167 - INQ000553699]; [KB/168 - INQ000553700]. NASUWT's January 2021 supply teachers

bulletin, explained the sources of financial support that may be available to supply teachers, but it also highlights the difficulties some faced in securing this support [KB/169 INQ000553701]. For example, if a supply teacher has more than one contract with an agency and their earnings are aggregated for the purposes of National Insurance Contributions, they must be incapable of work under all their contracts before they are entitled to SSP, whilst many would not meet the rigid criteria for the Test and Trace Support Payment Scheme.

107. UNISON also voiced concerns directly to the DfE, in a stakeholder advisory group meeting on 29 March 2021 [KB/170 - INQ000553702], followed by an email exchange on the same day [KB/171 - INQ000553703], highlighting the large number of staff working for private contractors in schools who would not receive full pay if they needed to self-isolate, and the limitations of SSP and the Test and Trace Support Payment Scheme referenced above. UNISON pointed to the fact that the head of the Government's test and trace scheme, Baroness Dido Harding, had acknowledged that a significant number of people were not self-isolating with Covid-19 symptoms for financial reasons, and that, therefore, urgent action was required to plug the gap in schools' defences against the spread of Covid-19. They asked the DfE to update its guidance to schools and contractors to make it clear that contracted out staff in schools should receive full pay when required to self-isolate, the same as if they were directly employed by schools, and for this to be done over the Easter break. The DfE, however, failed to do this.

108. Education unions also sent a letter to employers (local authorities and Multi-Academy Trusts) on 18 June 2021, encouraging employers to take additional measures to help protect students and staff, particularly in response to the new Delta variant [KB/172 - INQ000553704]. It stressed the need to ensure that all staff on site could self-isolate when appropriate and that employers should act to ensure that contractors (catering, cleaning etc) and agencies paid full pay when staff were required to isolate. It added, "*Staff want to do the right thing and should not be deterred from doing so by financial worries about the consequences of self-isolation.*"

109. Indeed, support staff, supply staff and agency workers continued to be affected. According to a 2021 NASWUT survey of 558 supply teachers, 61% stated that the agency did not make them aware of the steps and procedures in place for asymptomatic testing, and 44% were not made aware of the details by the school. 78% were not provided by the agency with the details of the contact person for obtaining the relevant NHS Test and Trace notification from the school, should they have needed to apply for the Self-Isolation

Support Payment. Well over a third of supply teachers (37%) reported that they were required to self-isolate during the academic year 2020/21 and the lockdown from January 2021. Of those, a quarter (25%) reported that their employer did not make them aware of whether they were eligible for SSP, and 15% of supply teachers reported that they did not know. Nearly half of supply teachers (45%) who were required to self-isolate reported that they were not eligible for any financial support, and half (50%) reported that they did not know. [KB/173 - INQ000553705]. These figures were even worse in the survey carried out the following year, in nearly every respect [KB/174 - INQ000553706].

110. Issues persisted even as late into the pandemic as January 2022, with UNISON writing to the 20 largest catering companies who were not providing full sick pay to staff, meaning that some of the lowest-paid staff in schools could not afford to self-isolate, urging the companies to review their sick pay policies [KB/175 - INQ000553707].

## Transport

111. There was a tension built into the Government's TTI policy as it was applied to transport as critical infrastructure which had to be maintained in order to keep freight and keyworkers moving and sustain economic and social life during the pandemic. Flaws with the technology, as well as the interaction of TTI with wider policy around restrictions aimed at returning to more normal life as soon as possible, created severe pressures on transport agencies to adapt national rules and guidance in order to mitigate the absences of workers from critical infrastructure. Whilst the Test and Trace app worked, per se, it was delayed, and when it was working, employers sometimes restricted its use to keep their businesses running. As the Government tried to relax restrictions, it created less safe workplaces and transport systems, generating more contacts, which then placed pressure on critical infrastructure, leading to pressure on managers to amend or override agreed safe procedures to ensure staffing levels. For union members, who had to keep working throughout the pandemic, this entailed great anxiety about the extent to which workplaces could be made 'safe', and about threats to their own safety.

112. From early in the pandemic, RMT called for mass testing of transport workers, stating in an April 2020 letter to Grant Shapps, then Secretary of State for Transport, that a recent survey had revealed 93% of transport workers believed that the Government should test them for Covid-19 but that this testing had not yet taken place [KB/176 - INQ000553708]. Mr Shapps assured RMT in his reply that the Government was "*committed to ensuring that every transport worker who requires testing has access to it*" and that the DfT was "*working*

*closely with DHSC to ensure a robust testing process is in place for the transport sector”* [KB/177 - INQ000119037]. However, issues with access to testing persisted throughout the pandemic.

113. The infrastructure for delivery of TTI, the NHS app, lacked credibility, leading to attempts to circumvent it by transport authorities in the interests of maintaining service levels. RMT reps were aware of public debate over whether the app was reliable in consulting on industry guidance as the app was launched. Transport authorities became aware of its tendency to deliver false positives. This meant that transport authorities could find themselves faced with sudden losses of staff from key workplaces like rail operating centres (“ROCs”), signal boxes and depots.

114. From October 2020 to January 2021, there were attempts by the RICF, Network Rail, London Underground and Transport for Wales to issue guidance that the NHS app could be ‘paused’ in ‘Covid-19 secure’ workplaces. See, for example, email correspondence from Network Rail in October 2020 [KB/178 - INQ000553710]; [KB/179 - INQ000553711].

RICF communications on 30 October 2020 [KB/180 - INQ000553712]. and on 19 November 2020 [KB/181 - INQ000553713], and emails regarding Transport for Wales requesting employees to immediately disable the app due to an increase in false alerts [KB/182 - INQ000553714], [KB/183 - INQ000553715].

These attempts were reckless, at variance with national guidance and the extent to which these workplaces were in fact ‘secure’ was unclear. RMT highlighted this and warned that attempts by the Government to ease restrictions on travel in the Autumn and Winter of 2020 were creating greater threats to public-facing workers [KB/184 - INQ000553719]. Predictably, some workplaces certified by employers as ‘secure’ turned out to be anything but – TSSA members at the shared Network Rail and Great Western Rail Control Office in Swindon were instructed to switch off their mobile phones at work, a ‘secure’ premises [KB/185 - INQ000553720].

Three colleagues tested positive for Covid-19 in early November 2020 but it was not until after people came off shift that another 20 or so individuals received notifications about the need to self-isolate in accordance with Government guidance [KB/186 - INQ000553721]; [KB/187 - INQ000553722].

It is worth noting that there were reports of instructions from employers to employees to turn off mobile phones or the NHS Track and Trace app whilst at work in other sectors as well, including the police [KB/188 - INQ000553723], and social care, as already noted above [KB/72 - INQ000525626].

115. At the beginning of 2021, continuing through to July 2021, Network Rail and the RICF sought to introduce the concept of ‘Test and Release’, in which workers in key locations

like ROCs, signal boxes and depots who were 'pinged' could take a lateral flow test and assuming it was negative, could carry on working alongside colleagues who had not. RMT objected to this, again on the grounds that members working in these areas would be exposed to a higher level of risk because they would be working alongside people who had been alerted of a contact by the app and were continuing to work on the basis of a negative lateral flow test [KB/189 - INQ000553724]; [KB/190 - INQ000553725]; [KB/191 - INQ000553726].

116. Again, this interacted with attempts by the Government to ease restrictions on transport use, through its 'roadmap'. On 18 July 2021, as the 'pingdemic' gathered pace this resulted in a public statement from the RMT denying Government claims that there was an agreement over the use of this 'Test and Release' method [KB/192 - INQ000553727]. RMT did not object to the use of lateral flow testing as part of general screening but did object to its substitution for self-isolation on receipt of a contact from the NHS app. During that month, the DfT itself issued guidance on exceptions and exemptions from the requirement to self-isolate [KB/193 - INQ000553728]. RMT sought urgent clarification from both employers and the Government, pointing to the lack of discussion with unions and any details on how the expanded isolation exemption scheme would be implemented [KB/194 - INQ000553729]. Network Rail asserted in meetings and correspondence that a rigorous process would be put in place and emphasised that it would still be the employee's choice whether to self-isolate or not, however this missed the point of the increased risk to that employee's colleagues if they did choose to attend work despite having been 'pinged' [KB/195 - INQ000553730]; [KB/196 - INQ000553731]; [KB/197 - INQ000553732].

117. Then, from Autumn 2021, additional issues arose around TOCs, in particular, seeking to move away from paying occupational sick pay in all cases for self-isolation and to return sickness absence to the control of managers. The implications of this were that rail workers who needed to self-isolate may not only suffer financially, but also that 'absence' could count towards 'Management for Attendance' ("MFA") processes – these are policies in place at TOCs, where a certain number of absences can amount to disciplinary action for the employee. The inevitable consequence of these implications would be a disincentive for the rail worker to self-isolate, despite testing positive for the virus. In November 2021, RMT raised these issues with the RICF and TOCs (including those operating in Wales) [KB/198 - INQ000553733]; [KB/199 - INQ000553734]. The RICF stated, on 14 December, that if an employee needs to self-isolate in line with the latest Government guidance then they would only be paid company sick pay if they tested

positive for Covid-19, in any other case the payment of company sick pay would be based on the specific circumstances of the individual case and would not be unreasonably withheld [KB/200 - INQ000553735]. They did confirm that such Covid-19 related absences should, however, be excluded from being recorded within any MFA monitoring process.

118. It is fair to say that many of the issues related to TTI arose from uncertainty in the industry about the changes in Government guidance on infection control measures and its rapidly shifting policy on restrictions on movement from December 2020 onwards. For example, at a July 2021 meeting between Network Rail union reps and Network Rail management to discuss the Government's plan to bring in exemptions (referenced above) [KB/195 - INQ000553730], management explained that Network Rail had only heard about this the night before and they were still trying to work out what the Government was saying they had to do, stating "[it was ] *presented to us on Sunday and no time for consultation or informing*".

### **Food processing**

119. Access to testing and support for isolation were significantly lacking in the food processing sector, a sector that was often overlooked in its importance in keeping the country running during the pandemic. As a result, there were a number of outbreaks associated with food manufacturing plants across the UK. For example, concerns arose in relation to the operations of Bakkavor – a sandwich maker for large stores such as M&S employing 23,000 people at 23 factories. Two employees died at a factory near Dover in Kent and around 100 workers tested positive following an outbreak. The GMB called upon the company to offer fully pay to anyone taking covid-related absence (rather than SSP), mass testing for staff, and to perform a deep clean at the factory [KB/201 - INQ000119200]. In April 2020, an operations manager at a factory admitted (in a secret recording) that social distancing was not possible, and threatened to fire anyone who was not ill and stayed at home and "*people who don't bother to get to work, get out.*" This continued to be an issue with Bakkavor through July 2020, with the company stating that employees registering a temperature above 37.5 degrees must leave the site but would only receive SSP [KB/202 - INQ000553736], and the beginning of 2021, with accounts of workers "*taking chances as they cannot afford to take the time off*" [KB/203 - INQ000553737].

120. The issue was widespread throughout the industry. In August 2020 there was a call for workers at Banham Poultry factor in Norfolk to receive more than SSP amidst 75 staff having tested positive [KB/204 - INQ000553738]. As with many other sectors with a

workforce that is often poorly paid, many were limited to SSP when self-isolating. That had the inevitable consequence that some workers that should have been self-isolating felt compelled given the financial consequences to continue to work.

121. In a meeting with DEFRA, the HSE and the Food Standards Agency, unions in the food and drink sector identified the heightened risk factor that lay behind some of the outbreaks seen in that sector, including [KB/205 - INQ00019220]:

- a) Asymptomatic workers with positive tests were still going in to work as they did not get full sick pay – so could not afford to take time off work.
- b) Good employers had managed outbreaks better through full sick pay and closed production lines.

122. Unite raised concerns regarding insufficient testing and support for self-isolation in the food processing sector through various press releases, particularly in relation to Moy Park, a Northern Ireland meat producer, which refused to provide workforce testing and to provide full pay for self-isolation, despite clusters of outbreaks of Covid-19 at Moy Park sites and the death of an employee in Dongannon from the virus [KB/206 - INQ000553739];

[KB/207 - INQ000553740]; [KB/208 - INQ000553741]; [KB/209 - INQ000553742] [KB/210 - INQ000553743].

123. Research undertaken by the University of Greenwich, commissioned by the TUC, in March 2021 highlighted inconsistency in support for self-isolation, both across the sector and within individual employers [KB/211 - INQ00019163] – agency workers at FoodCo informed union reps that they could not afford to isolate when required, whereas directly employed workers were paid in full when self-isolating or waiting for tests. Meanwhile, SeafoodCo had its own track and trace system and isolated whole production lines where necessary, with Covid-related sickness meaning sick pay was paid from day one. It therefore appeared to be a lottery as to whether you received the necessary support for testing and isolation, thereby undermining the purpose and effectiveness of the TTI system entirely.

## **Retail**

124. In January 2021 Usdaw wrote to Matt Hancock, Secretary of State for Health and Social Care, and Alok Sharma, Secretary of State for Business, Energy and Industrial Strategy, raising concerns over the new strain of coronavirus and its impact on their

members [KB/212 - INQ000192232]. The union called on the Government to give priority to retail workers and delivery drivers in the rollout of mass testing, and for retailers to ensure that staff who needed to self-isolate were provided with full pay.

125. The lack of clarity and confusion in the approach taken by the Government to TTI was evident in its attempt to address concerns about staff shortages by offering early exemption from self-isolation for critical workers. This scheme was announced to the media without consultation with unions and without any full details being published simultaneously or in advance of the announcement. This created unnecessary confusion amongst employers and employees. The Government's mishandling of the exemption scheme resulted in a position that put people's health, and the functioning of the economy, at significant risk. Usdaw wrote to the Prime Minister to express concerns about this and the Government's wider mishandling of the pandemic [KB/213 - INQ000119086], stating "*Usdaw is extremely concerned that removing the requirement or guidance for these workers to self-isolate when they have been identified as a close contact is likely to further increase infection rates*". The union further called for the Government to "*develop effective local public-health based tracing systems to identify the people who need to isolate and make sure they get the practical and financial support they need to enable them to do so*".

### **Construction**

126. Early in the pandemic, Unite called for construction workers to be included in the Government's targeted Covid-19 testing of key workers. Unite's Assistant General Secretary, Gail Cartmail, wrote to Matt Hancock, then Secretary of State for Health and Social Care, on 28 April 2020, highlighting the importance of such workers being tested so as to not undermine the efforts to prevent the spread of Covid-19 more widely [KB/214 - INQ000553745]. Unite welcomed the announcement, that evening, that construction workers would now be eligible for Covid-19 testing [KB/215 - INQ000553746].

## **F. CONCLUSIONS AND LESSONS LEARNED**

127. The TTI system during the pandemic, in the whole, failed. Too many workers were unable to access the testing and the support for self-isolation required for the system to function effectively. Self-isolation without adequate provision of sick pay is ineffective. It led to some avoiding testing for fear of the financial consequences, thereby undermining a fundamental pillar of the TTI system, and others to choose to attend work instead of

isolating, putting their and others' health at risk and potentially contributing to the spread of the virus through the wider community.

128. Added to this, leadership and guidance from the Government was lacking. Guidance that was produced, was frequently done so without meaningful engagement with stakeholders, including unions, and was therefore ill-informed and often confusing. Unions tried, where possible, to seek clarification and to fill the vacuum by providing advice and guidance to members, but they could only do so much. The fact is that workers throughout the UK were often left confused as to the right course of action and lacked the protection and support they needed.

129. For a TTI system to be effective, it has to be effective for everyone. Lessons must be learned from the experiences of the pandemic, and in that regard I would highlight the following:

- a) Measures should be in place to ensure that no worker suffers financial detriment when required to self-isolate. Occupational sick pay should be available to all workers, not just those directly employed. Fundamentally, SSP should be available to all workers – approximately two million workers are currently not eligible. The lower earnings threshold should be removed. The current government is proposing to do so through measures in the Employment Rights Bill, however, we would urge the Chair to support this as a key part of a reformed SSP system that is better able to support all workers in a future pandemic. The prohibitive three-day wait for payment should also be removed. Again, this is also subject to change through the Employment Rights Bill, but we urge the Chair to recognise the importance of the temporary move to day-one rights in supporting workers in the pandemic. Finally, but importantly, the level of SSP should be increased to a liveable rate.
- b) In any future pandemic, properly functioning TTI systems must be well established at an early stage, with a sufficient supply of tests to enable mass free testing.
- c) Guidance on close contacts and transmissions needs to be based on a 'precautionary principle' so as to give the UK the best chance of shutting down transmission before it gets out of control – this precautionary approach was lacking in the Government's approach, in particular in regard to their failure to acknowledge airborne transmission routes.
- d) Government must, in the future, be willing to engage positively with trade unions over policy decisions affecting the relevant sectors. Failure to do so is a failure to

benefit from their expertise and, as we represent those who have to implement and live with these decisions, and they deserve to be heard.

130. Specifically, on social care, care workers should get access to testing as soon as it is available, on the same basis as NHS workers. At the start of the pandemic social care was at the back of the queue, which had serious consequences.

131. Finally, in the education sector:

- a) There should be no expectation that school leaders will ever again be expected to deliver mass testing to pupils; this must in future be seen as the role of local public health professionals, with leaders properly supported in any necessary measures involving their school. These tensions resulted from a system that was built from scratch rather than making use of existing local structures and there are clearly lessons to be learned in this respect.
- b) Schools should not be fully reopened until properly functioning TTI systems have been established, with a sufficient supply of tests to enable mass free testing (as detailed above).
- c) Laptops and free internet must be provided to all pupils in case they need to isolate at any point.

#### 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**

**Kate Bell**

Dated: 14 May 2025