

SCOTTISH COVID INQUIRY: OPENING STATEMENT OF SCOTTISH HAZARDS FOR
HEALTH AND SOCIAL CARE

INTRODUCTION

1. This is the opening statement of Scottish Hazards in the theme of health and social care of the Scottish Covid Inquiry. Scottish Hazards have been designated the status of core participant in the Inquiry in respect of Terms of Reference: (a); (b); (c); (d); (e); (f); (g); (h); (k); and (l). Scottish Hazards is an organisation with charitable status. They are a registered SCIO. The primary objective of Scottish Hazards is the advancement of health and safety in the context of occupational health. They provide support to vulnerable workers who do not otherwise have the protection of a recognised trade union within their workplace. The sectors in which they assist workers is broad, and wide reaching, including those within the health and social care sector.
2. During the Covid-19 pandemic in Scotland, Scottish Hazards carried out casework. They set-up and operated a Covid Helpline for workers. The helpline provided advice and assistance in the first instance. Scottish Hazards took on casework to further the interests of the worker. Scottish Hazards dealt with 460 cases via their Covid Helpline and casework. This has placed Scottish Hazards in a unique position of being able to provide the Inquiry with evidence in respect of the experiences of workers, and the challenges they faced, during the course of the pandemic. The focus of the work of Scottish Hazards is to assist non-unionised workers.
3. Scottish Hazards was recognised during the pandemic for their expertise in occupational health and safety. They were invited to sit on the Scottish Government Covid Safer Workplaces Advisory Group.
4. In this Inquiry, Scottish Hazards welcomes the human rights approach which has been adopted. They seek to highlight the experience of workers during the pandemic and the critical role they played within the health and social care sector, particularly from a human rights perspective.
5. During the Covid-19 pandemic, health and social care workers were at the forefront of those who were regarded as ‘key workers’ by the Scottish Government. These workers

were the ones who continued to attend their workplaces on a daily basis. They were the workers placed at the greatest risk of contracting Covid-19.

6. At the commencement of the hearing, Scottish Hazards would wish to highlight the sacrifice made by workers in the health and social care sector, particularly those who contracted Covid-19 and those who lost their lives. Those working within the health and social care sector were on the frontline of the pandemic response during the national emergency. Scottish Hazards would like to extend their condolences to all who lost a loved one as a result of Covid-19.

HEALTH AND SOCIAL CARE IMPACT

7. As important as the voices of those who were patients, care home residents, and families of the Covid bereaved, it is important that we do not forget those who were working within our health and social care environment. Those individuals were providing lifesaving medical treatment and care to society whilst experiencing the same fears as everyone else – what was going to happen next?
8. Those working within health and social care were faced with daily struggles during the pandemic, in the same way everyone else was also struggling, however they were also expected to continue on working in an environment which was increasingly becoming unsafe. Scottish Hazards have spoken of how panic and fear was rising in those utilising their helpline, people who did not want to catch Covid-19 but who were being placed in unsafe situations by their employers. They welcome this Inquiry exploring the impact Covid-19 has had in the sector.
9. Those working as a key worker during the pandemic, particularly those within the health and social care sector, made the biggest sacrifices for the functioning of society and, unfortunately, many of those people suffered, both physically and mentally. Scottish Hazards wish to highlight this sacrifice to the Inquiry.
10. 2,187,819 people in Scotland have had a reported case of Covid-19 since the start of the pandemic. It is widely accepted that this number is likely to be a gross underestimation due to lack of reporting and lack of test facilities available. From the data tracking available via Public Health Scotland have details of the numbers of

positive cases of Covid-19, however there is limited data regarding occupational and workplace transmission. The Care Inspector track Covid-19 adult care home statistics¹, which includes staff absence levels, but leaves a wide gap in data for other areas of social care. This data was reliant upon self-reporting and comes against a background of pressures of staff to continue to work when unwell. Likewise, NHS Scotland track staff Covid-19 Absence levels² however this does not provide a breakdown of which staff categories have been impacted, or demonstrate any disproportionate class of workers who may have been impacted.

11. Since the beginning of the pandemic, thousands of people have died of Covid-19 in Scotland. The National Records of Scotland hold data on Covid-19 deaths broken down by pre-existing conditions, age, sex, individual care homes and hospitals, health board area, and local authority area³. What they do not have is a breakdown of those who have died as a result of Covid-19, following workplace infection.
12. This lack of data sets of those within the workforce of health and social care demonstrates the importance of organisations like Scottish Hazards and their trade union colleagues. Through their work, Scottish Hazards are in a unique position to provide evidence to the Inquiry which has not been captured elsewhere. The lack of data collection is also the sad reality of how workers were treated during the pandemic, forgotten.

HELPLINE

13. Prior to the pandemic, Scottish Hazards operated a helpline to assist with health and safety issues. The helpline would have yielded approximately 5 cases per month, with varying levels of advice and assistance rendered.
14. At the start of the pandemic, prior to the first lockdown on 23rd March 2020, the helpline started to take calls from worried workers who had concerns about themselves and vulnerable loved ones. The calls they received at the start of the pandemic were at a low level but increased as a sense of panic and fear was rising. The volume of calls rose,

¹ <https://www.careinspectorate.com/index.php/publications-statistics/184-statistics-and-data/covid-19-statistics>

² <https://turasdata.nes.nhs.scot/data-and-reports/other-workforce-statistics/covid-19-staff-absence/>

³ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/deaths-involving-coronavirus-covid-19-in-scotland>

and a dedicated helpline was set up in May 2020. Scottish Hazards was able to secure Government funding to enable expansion and support offered to workers.

15. Scottish Hazards were receiving calls on a regular basis from workers with concerns about their place of work, including from those within the health and social care field. The calls received would often be from workers who were concerned about their working conditions, as a result of Covid-19, but felt unable to vocalise this with their employer directly. Many of those who contacted the helpline were looking for guidance, they did not want Scottish Hazards to raise issues directly with an employer out of fear of reprisal. Scottish Hazards contacted approximately 50 employers to provide assistance to employees. The work of Scottish Hazards during the pandemic gave many workers an avenue to seek the advice they needed. The calls received into the Scottish Hazards helpline were received from a wide variety of individuals, many of whom were vulnerable. Vulnerable workers are not just those who would be considered to be clinically vulnerable, but also those who were some of the most disproportionately impacted by Covid-19.
16. Non-unionised workers, particularly within the health and social care context, are made up of a workforce who are predominantly female; those from a black and ethnic minority background; and those who were in a low paid role and/or on a zero hour contract. This proportion of the workforce were disproportionately impacted due to difficulties in accessing sick pay and support by employers. Scottish Hazards were able to provide guidance and assistance to those vulnerable workers throughout the pandemic. They are able to give evidence to the Inquiry of these experiences as many of these workers feel unable to speak for themselves.
17. Scottish Hazards can, and shall, assist the Inquiry in ensuring the voices of workers who feel they cannot speak out are heard. From the calls taken by the dedicated Covid helpline, Scottish Hazards have been able to identify significant themes and issues which arose.
18. Employees were becoming panicked, concerned, and fearful for their working conditions. They were often not being consulted regarding planning or Covid risk assessments. Workers were reporting that they felt excluded from decisions regarding health and safety, with their personal circumstances being disregarded by employers.

Employers were failing to take into consideration vulnerable employees or their family members. Risk assessments carried out were reported as being generic, particularly in the home care sector, failing to take account of the needs of the service user and their home environment. As a result, care workers were put at risk by being exposed to environments which had not been suitably and adequately risk assessed, as they ought to have been. This experience left workers feeling de-valued at a time when they were needed most. People contacting Scottish Hazards were doing so out of fear.

19. The calls received into the Scottish Hazards Covid helpline speaks to the true experience of health and social care workers during the pandemic. The Scottish Covid Inquiry has made a commitment to conduct proceedings with a human rights focus. Sadly the pandemic planning and response was not approached with the rights of workers in focus. Many workers contacting the Scottish Hazards helpline reported that the requirements of their employer were surpassing their rights as an individual. Workers reporting their direct supervisors, such as junior or middle managers, misinterpreting Covid response guidance in a way which would favour them and place employees at risk. This is best exemplified by reports from workers of the threats of discipline they would receive from employers if they were not complying with the employer's guidance.

20. Without the Covid helpline operated by Scottish Hazards, these workers would have been left without a voice.

CASEWORK

21. During Covid, Scottish Hazards would take on casework to assist workers with issues they were encountering regarding health and safety. This casework would arise as a result of calls into the Covid helpline. From this casework, Scottish Hazards would learn of concerning situations which workers in the health and social care were being placed in, including issues with personal protective equipment, or the lack thereof; lack of compliance with guidelines surrounding home working; inappropriate allocation of work to those in the care sector; lack of risk assessment in the care sector; issues surrounding Track and Trace; and access issues to the Covid-19 vaccination. This list demonstrated the wide-reaching advice and work which was being undertaken by

Scottish Hazards. They have gathered data regarding the issues which were experienced by those assisted with their casework which have been shared with the Inquiry to assist.

22. The issue with personal protection was widely reported in the press, particularly with issues surrounding procurement and issuing of contracts to manufactures. The issue for care workers however was far more pressing. They required to be provided with appropriate PPE to provide them with protection when doing their job and to provide protection for the vulnerable they were working with. It is easy to get drawn into the political regarding decision making in respect of resource allocation in terms of PPE, but this forgets those who were directly impacted by the decision making. The PPE shortages resulted in health and social care having no PPE; being required to re-use PPE; or to use inappropriate PPE and risk their own health whilst doing so.
23. Scottish Hazards was receiving anonymous calls from an early stage in the pandemic from care workers who were required to visit multiple service users per day. These workers were being required, by their employer, to take away used PPE in their own vehicles or, in some cases on public transport to be disposed of in their own homes. This instruction was made as a result of service users not wanting PPE disposed of in their dustbins. This created a risk of increased exposure to care workers and risk of contamination between households being visited.
24. Care workers also contacted Scottish Hazards regarding the work they were being asked to carry out. Workers were reporting changes to their duties, such as moving from providing emergency care for welfare and food to full care packages for service users. Care packages had been reduced during the early stages of the pandemic to minimise time in service users' homes. The change back to full packages resulted in increased time being spent in a service users' home, with an increased risk to the worker. Employers were failing to consult their employees or risk assess these changes, with the blame for changes being placed by employers on regulators, such as the Care Inspectorate. The failure to consult or risk assess left workers worried and concerned for their own safety. These workers would have to return home to their own family at night and place them at risk, without knowing what they may have been exposed to.
25. When changes were being implemented, the complaints of workers were that they were not being consulted. They were not made aware of changes, and they were unaware of

risk assessments being undertaken for these changes. The lack of communication resulted in fears by workers about increased exposure to Covid-19, leading to them seeking out advice from Scottish Hazards.

26. Scottish Hazards also dealt with casework for care workers who were concerned about others in the homes of service users when they would be carrying out necessary welfare visits. The additional people in the home would often be family members visiting, contrary to Government guidance. Health and social care workers were working in environments which were not properly ventilated. Care workers were being told by employers to carry out their duties despite increased potential exposure to Covid-19 as a result of these additional visitors in service users' homes.
27. These examples of casework carried out by Scottish Hazards demonstrate the flagrant disregard for the rights of workers during the pandemic. It is hoped by Scottish Hazards that the Inquiry shall acknowledge the treatment and sacrifice of health and social care workers for their efforts during the pandemic.
28. Whilst those within the health and social care, broadly, were unable to work from home, Scottish Hazards encountered casework whereby some employees who ought to have been working from home were not permitted to do so. They are able to give evidence of examples of employers who did not facilitate home working for vulnerable employees, such as those working in administrative roles within GP practices. Those undertaking administrative work within the care sector were instructed to return to workplaces as guidance eased, despite being able to do their jobs from home. The attitude of employers, as reported to Scottish Hazards, was that as care workers had to go out and do their job as normal, so should administrative staff. Once again demonstrating the disregard for the safety of the workforce within this sector, in all roles.
29. Within the care sector, it was reported to Scottish Hazards that the Test and Protect scheme was not being utilised. Employees in health and social care also experienced difficulties in accessing the vaccination in the early stages, due to lack of information about who should receive the vaccination, when and how. This again added to the heightened fears of health and social care workers. This is one of many examples of Scottish Government guidance not being followed.

30. Those best placed to speak to their experience would, of course, be the health and social care workers themselves. Unfortunately many feel unable to do so for fear of reprisal from their employer which is why Scottish Hazards is well placed to do this on their behalf. The witnesses advanced on behalf of Scottish Hazards will be able to bridge this gap in available evidence of the experience of non-unionised workers.

COVID SAFER WORKPLACES ADVISORY GROUP

31. In March 2020, a Covid Safer Workplaces Advisory Group was set up by the Scottish Government. Scottish Hazards was a part of this group. The first meeting of the Advisory Group took place in June 2020. Scottish Hazards welcome and praise the formation of this Advisory Group and the engagement with Scottish Hazards, trade unions and other interested parties to ensure lines of communication were created.

32. The purpose of the Advisory Group was to feed information into the Scottish Government and out to their constituencies. The consultation group was specific to the pandemic. There was incoming information from each organisation which was fed back to the Group and the Scottish Government. Each organisation would voice the issues, concerns, and interests of its members or those they represented. Scottish Hazards fed-in information about its casework, which usually included case summaries and a general introduction to highlight the themes or concerns for the relevant period. If Scottish Hazards saw a particular problem on a case and had reached the end of the road with the employer, they would make the Scottish Government aware so they could, if possible, intervene. In addition, Scottish Hazards, and other group members, were also able to have discussions with government representatives regarding future guidance, which was to be issued, to assist in shaping policy decisions.

33. This Advisory Group provided a platform for discussion and an opportunity for Scottish Hazards to raise the concerns of those on the frontline who had been forgotten about by their employers. Scottish Hazards would like to see the Safer Workplaces Advisory Group continue. There needs to be ongoing work done to ensure preparedness in the event of a further pandemic.

34. This valuable line of communication with the Scottish Government ensured those who were not represented by a trade union were still included in the discussion.

WITNESS EVIDENCE

35. During the health and social care theme, Scottish Hazards have proposed oral evidence be heard from Ian Tasker (Chief Executive of Scottish Hazards) and Kathy Jenkins (Trustee of Scottish Hazards). Both witnesses will be able to provide evidence to the Inquiry of the experiences of the non-unionised workers in Scotland. Such evidence will assist the Inquiry in better understanding the experience of health and social care workers in Scotland.
36. Mr Tasker conducted the majority of the casework during the pandemic. Mr Tasker will be well placed to provide evidence to the Inquiry regarding the experiences of vulnerable workers, some of whom are not able to speak for themselves. Mr Tasker prepared reports for the Scottish Government's Covid Safer Workplaces Advisory Group and attended group meetings. Ms Jenkins also supported the Scottish Hazards Covid helpline in addition to her role of overseeing the reports prepared for the Safer Workplace Advisory Group. She attended these meetings on a regular basis with the Scottish Government to represent Scottish Hazards.
37. It is anticipated that Mr Tasker would be able to speak to the specific impact of the pandemic, as learned via his casework. It is anticipated that Ms Jenkins and Mr Tasker would both be able to speak to the general impacts of the pandemic on workers in the health and social care sector; the impact of the systemic responses in the health and social care sector on workers; and the disproportionate impact the Covid-19 pandemic had on categories of vulnerable workers in the health and social care sector.

CONCLUSION

38. Scottish Hazards welcomes the commencement of the Scottish Covid Inquiry and hope that they are able to assist the Inquiry with fulfilling their Terms of Reference. It is hoped that there shall be an acknowledgment given to workers in all sectors for the sacrifices they made during the Covid-19 pandemic to ensuring vital services continued.
39. Scottish Hazards would like to see the Inquiry assist in the furtherance of workers' rights, in line with the categories of Terms of Reference. The lack of preparedness for

the pandemic led to strain on workers. This additional strain was contributed to not only by Government policy decision making but also the actions of individual employers who also did not have suitable plans in place for disaster or emergency and their failure to follow guidance of the Scottish Government. Scottish Hazards would call for both the Scottish Government and employers to take action to ensure preparation and planning takes place in anticipation of any further pandemics in the future. Any such planning should be done in consultation with employees for the improvement of the health and safety of workers and workers' rights. Lessons require to be learned from the Covid-19 pandemic and Scottish Hazards hope this Inquiry recognise the impact the failures in preparation had on workers and their human rights.

40. Covid-19 has had a devastating impact on the health of some of those who have contracted the illness, particularly those who have suffered from Long Covid. The pandemic was treated only as a public health emergency. Scottish Hazards is of the view that Covid-19 should also be regarded as being an occupational health matter for those who caught Covid-19 during the course of their employment. Recognition of Long Covid as an occupational disease would allow workers who became infected during the course of their employment to access Industrial Injury Benefits. Scottish Hazards hope that the Inquiry will give consideration to this issue as recognition of classification of Covid-19 caught in the workplace as an occupational disease, an issue which was considered by the Industrial Injuries Advisory Council (IIAC) and acknowledged impacted on health and social care workers⁴. Long-Covid should be a deemed disability under the Equality Act 2010 to ensure suitable protection is given to employees who have made the misfortune of suffering from the illness.

41. To conclude, Scottish Hazards would welcome the opportunity to make an oral submission in support of these written submissions during the initial batch of forthcoming hearings.

EILISH LINDSAY, ADVOCATE

13TH OCTOBER 2023

⁴ <https://www.gov.uk/government/publications/covid-19-and-occupational-impacts#:~:text=IIAC%20found%20the%20most%20convincing,of%20function%20in%20some%20workers.>