

Scottish COVID-19 Inquiry
Witness Statement
By
Dave Moxham

Introduction

1. My name is David Benjamin Moxham, but I'm known as Dave Moxham. I am 58 years of age, and my date of birth is Personal Data My details are known to the Inquiry.
2. I am Deputy General Secretary of the Scottish Trade Unions Congress (STUC).
3. I have met today with witness statement takers from the Scottish COVID-19 Inquiry team, and I am happy to provide a statement about my experiences of the COVID-19 pandemic. I am willing to provide a statement, have my information contained within reports and, for my statement to be published.
4. I am happy to attend the hearings in person if required.
5. I would like to give evidence about workers across Scotland who faced huge challenges both personally and in their working lives as the pandemic escalated.
6. I have worked for the STUC for nearly 20 years. Before that, I worked for a Member of Parliament. I was an elected Glasgow City Councillor for a period in the 1990s and also worked in Glasgow as a Youth and Community Worker.
7. I joined the STUC as a campaigns and communications officer, before acting as an Assistant Secretary. I have been Deputy General Secretary for the past 15 years and was in this post in the lead up to, and the duration of, the pandemic until present date.
8. The General Secretary is Roz Foyer who started with STUC on 16 March 2020.
9. As Deputy General Secretary, I have at some point or other held policy responsibility for all areas of trade union interest. I have always headed up our campaigns and media department. My current policy responsibilities, and this was true during the COVID period, included energy, transport and heavy industry.
10. I also have lead responsibility for aspects of Trade Union Learning and organising and local trades unions councils. However, the role is incredibly varied, involving

deputising for the General Secretary in the media, on public boards and in high level negotiations with Government ministers and officials.

Background to the STUC

11. The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC represents over 545,000 trade union members in Scotland from 42 affiliated trade unions and 20 trade union councils. It is governed by the STUC General Council who are elected annually at STUC Congress.
12. The STUC employs over 30 individuals and around half of these are core-funded from our affiliates to carry out the work of the STUC. We have a range of additional projects and also process learning and skills funding from the Scottish Government and other sources. We are based at the Margaret Irwin Centre in Bridgeton, Glasgow.
13. The STUC is the national lobbying, campaigning and co-ordinating body for trade unions in Scotland. The constituted purpose of the STUC is to co-ordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland reflecting the aspirations of trade unionists as workers and citizens. This is supplemented by the STUC's Vision and Mission: to build a strong, influential, and globally aware trade union movement that champions equalities & delivers a fundamental shift in wealth, wellbeing and power towards workers, our families and communities in Scotland & beyond; to support our affiliates to educate, agitate, organize and build a movement for change in our workplaces and communities.
14. The STUC focuses campaigns and lobbying on all devolved matters including education, health and social care, local government, and transport.
15. The STUC maintains a formal relationship with the TUC, Wales TUC and Irish Congress of Trade Unions through the Council of the Isles. The STUC works in partnership with the TUC on non-devolved areas of policy. The STUC also lobbies and campaigns directly with Westminster on UK non-devolved policy issues when deemed necessary or appropriate by our affiliates.
16. The STUC was established in 1897 and is a key civic organisation in Scotland. Successive Scottish Governments since devolution in 1999 have actively engaged with the STUC, albeit taking a variety of approaches.
17. The current Scottish Government has a stated aim for Scotland to become a leading Fair Work nation by 2025. This framework identifies the value placed on trade unions as the effective voice of workers in Scotland and

provided the backdrop to initial joint responses to the pandemic by Scottish Government and the STUC.

18. The STUC represents members in health and social care through our affiliated trade unions.
19. I am aware that the STUC have already provided formal information to the Inquiry in the form of a Rule 8 response regarding the impact of the pandemic on health and social care workers.
20. I am also aware that the General Secretary, Rozanne Foyer has spoken to the Inquiry regarding the impacts of the pandemic on the STUC and on health and social care workers. Her statement covers many of the impacts in detail and comprehensively, but I would just like to expand a little on some of the impacts with regards to my own experience.

Lead up to Pandemic

21. In the lead up to the pandemic, over and above of my role of deputising for the General Secretary, I led on campaigns and communications for the STUC. I had responsibility for defined policy areas in energy, transport and adjust transition. I also had a relatively high level of liaison with public sector unions over local government and public services.
22. Prior to COVID, we would have face-to-face meetings generally, unless we had the odd phone call. We didn't use any video conferencing technology at all and so we had regular in-person meetings with the Scottish Government, which I often undertook on behalf of the STUC.
23. We were working in temporary accommodation at that time in Rutherglen, Glasgow. We were in the middle of moving from our former place at Woodlands Road, Glasgow to our new address at Landressy Street, Glasgow.
24. We had regular, and what we would call "critical but positive", meetings over a whole range of policy areas. We would have had 2 yearly meetings with the First Minister to other meetings with various other cabinet secretaries and ministers. I would say we had a pre-existing and mainly positive relationship with the Scottish Government and ministers before the pandemic got underway.

STUC Response to the Start of the Pandemic

25. When it became obvious that things were going to change and just prior to the lockdown on 23 March 2020, we did two things. Probably towards the end of February 2020 and beginning of March 2020, we contacted our own affiliated unions early to alert them to the fact that the STUC would

be attempting to have a strategic role with what was to come. Our role already included bringing together unions and reaching shared positions on industrial or social issues.

26. We convened what we called our COVID-19 group within the STUC and we contacted around 10-12 of the largest unions representing the key sectors to form a committee in early March 2020. At a similar time, the Convention of Scottish Local Authorities (COSLA) formed a group to deal with Local Government. We were initially invited onto that, and I did attend the first couple of meetings. There was a lot of representation from local government at that along with Education Unions. Within a fairly short amount of time, we concluded that the amount of union coverage there was sufficient and that the STUC could just concentrate our relations with the Scottish Government rather than other areas of the public sector.
27. We also made contact through our Fair Work Liaison officers at the Scottish Government with various government ministers to start some means of communication.
28. We didn't know the extent of what was ahead, but we quickly realised that the workplace was going to be a fundamental arena and the pandemic would affect workplace practices. This was prior to full lockdown but there was already media speculation about potential restrictions and some evidence internationally that it was already taking place.
29. We already had a pre-scheduled meeting on 5 March 2020 with Fiona Hyslop, who was the Cabinet Secretary for Economy, Fair Work and Culture. That meeting was prior to lockdown, but at the point where concerns were already rising. On this occasion, 7 or 8 members of our General Council were present and representing the major unions. Both sides of the table were aware of the worsening situation, and it was good we were already in touch with the relevant civil servants when the situation did evolve.
30. There was a concern from the Fire Service about a week before lockdown as I remember, and they were advising members not to attend large scale public events. When other unions heard this, they began to ask when and what advice was going to be given out to public sector workers, including Health and Social Care workers.

Impacts of Lockdown

31. As lockdown hit, it became all-consuming and we were working on an hour-by-hour basis. The two main areas of my work were, initially, the Government liaison role and then in charge of outward communications.

We have a lot of members, but it wasn't necessarily easy to communicate with them with all of the information we had to get to them.

32. Essentially, it was me, the General Secretary and [Name Redacted] (our former Lead Policy Officer). I worked together with [Name Redacted], who led on Government liaison. We worked together to create the initial contact of twice weekly meetings with Fiona Hyslop's Office. As things progressed, I had to take some other bilateral roles too which were derived from those meetings. I had to sit on a range of groups and was involved with different Government departments depending on what was being discussed. It was a very hectic period, and I was working long hours starting at 5am and stopping at 8 or 9pm in that first period.
33. Our management team would meet every morning at 9am to discuss various issues and concerns and to strategically plan. After the first few weeks of lockdown, we were able to then reallocate some tasks and each of us had our own strategic strand of work. We were split into sub teams, and we would meet on a daily basis.
34. We were obviously concerned for all workers in Scotland, whether they were our members or not. We quickly built up a social media function which we used for information and campaigning purposes.
35. We weren't in a position, due to our financial constraints, to bring in additional resources. Rather quickly, we had to redeploy some staff into key roles. It was all pretty much all hands-on deck. We had to move people from non-direct Government roles into those Government direct roles and had to change their roles from that temporary responsibility into a more formal one. We simply redeployed some of our existing resources to the crisis as it unfolded.
36. The weekend following lockdown, we began to receive reports that some businesses were not adhering to the lockdown measures. So, we took to social media asking people to expose companies who were doing this. This was building a public facing engagement as opposed to just our work with the Scottish Government. It was a very good way of us outlining how the STUC were on the side of caution and adherence to the best possible kind of practices and the expectation that employers should follow suit.
37. MPs and MSPs began to contact us and in a way, we were being looked at to interpret guidance that was coming out for workers. We did that through our website and on social media. So, there was a public facing aspect to the work that we did. In the earlier phase, it was more focused on the private sector workplaces that health and social care workers.

38. It allowed us to quickly provide an evidence base for the Scottish Government to demonstrate that there were breaches taking place and that their cautious approach was correct.

Scottish Government Consultation and Engagement

39. We used our meetings with Scottish Government to try and have an influence on the First Minister's briefings. We were aware that what the First Minister delivered on the daily briefings was really important.
40. On some occasions, we were successful in seeing what we had highlighted to the Scottish Government reflected in the First Minister's statements.
41. When that did happen, we were keen to be publicly very supportive of that, for example by way of press releases, social media and media interviews. There were occasions when we felt that the First Minister adequately reflected our concerns which was to have a more cautious approach.
42. Similarly, there were other times when we were disappointed with the way some things happened. For instance, we published a critical briefing on the state of the social care sector on 3rd May 2021. However, there was never a time that we felt we couldn't be critical when we had to be. It shows the strength of the relationship we had with the Scottish Government that we could do that.
43. As a generality, we were aware of how overworked some of the Government officials were but perhaps the Scottish Government weren't always aware of the constraints on our resources and how quickly we could address things or the speed of some engagements. This did lead to some frustrations but overall, we had a good relationship.

Health and Social Care Sectors in Scotland before the COVID-19 pandemic

44. I was never involved historically in policy terms with any of the NHS side of the healthcare system. I was, for many years, the lead officer in the STUC for the voluntary sector which essentially included the care sector at that time.
45. From Mid 2000s onwards, we had been campaigning for better terms and conditions and we were part of the campaign to create the living wage, which was subsequently applied to social care. So, my awareness and the STUC awareness of the splintered nature of the care sector and the broader social sector was really embedded.
46. As far as we were concerned, the social care sector was a sector in crisis far in advance of the pandemic starting with workers in receipt of low

wages, in return for what is a heavily regulated, often non-unionised with many workers not supported or trained appropriately. That is what my personal working experience was, as well as in relation to my policy involvement and convening the social care unions.

Impact of the COVID-19 pandemic on Health and Social Care Workers

47. As I previously mentioned, we had two routes of communication through to the workers. One was via the Covid-19 group where affiliated unions represented their members within the health and social care sector. The other route was where health and social care workers (both unionised and non-unionised) would contact the STUC directly via social media or our website. We had the COVID group and representation by the affiliated unions and we also had health and social care workers amongst other workers contacting the STUC directly as a consequence of our social media work or our website.
48. In some circumstances, some of the workers would not be in a unionised workplace. A significant number of social care workplaces are not unionised. We did therefore have the opportunity to test the individual experiences of non-unionised care workers against the information that was coming from the unions themselves. We also played a role in attempting to get support for the social care workers through one of the three recognised unions.
49. For non-unionised workers we would do one of two things: we would try and give immediate, although minimalistic, advice or we would offer them the opportunity to make direct contact with one of the trade unions. We would build that into our qualitative messaging about what was happening out there.
50. Much of it is covered in detail from the official information that STUC have already provided to the Inquiry, but the concerns from workers centred around PPE, social distancing, and various other things that the unions have already went into with you in great detail.
51. We maintained a spreadsheet database across all of the sectors with information including the issues and concerns we had received from workers, advice that they had been given, and whether the worker had been referred to a union. We were able to collate that and see whether what workers were saying directly was the same as the information that unions were reporting back. The issue surrounding PPE was enormous as everyone knows. The actions taken pertaining to the movements of patients from NHS and social care setting was too. The financial position faced by care workers before any support could be put in place for them was also a significant issue. I think the details around many of these

issues have already been addressed by our organisation already in its evidence to the Inquiry.

Exposure to Infection and Worker Deaths

52. In relation to key workers, we also were clear with the Scottish Government that in the regulations their transport to and from work should be considered.

The health and safety responsibility of care homes, and all of the various regulatory regimes to be followed, didn't include transport. Transport isn't covered in normal health and safety responsibilities of employers, so we were quite aware of the interface between transport restrictions and workers getting to their work.

53. If a group of workers were all to travel on the same bus to Monklands Hospital, for example, or to a large care home, then who else is on that bus and who else is allowed to travel on that bus matters.
54. That problem isn't unique to Health and Social Care but when we were considering transport restrictions, we had to consider how workers were getting to work and in particular the ones who had to get to work all at the same time to the same place.
55. We did express our concerns around transport to the Scottish Government as did Unite the Union. It did matter how people were getting to work.
56. In call centres, where the work was subcontracted for NHS24 and other areas, we did have outbreaks. We found out later that it was caused by people getting COVID on their travel to work or car sharing. We asked the Scottish Government to exert caution and consider the restriction of non-essential workers using public transport (which meant that key workers would only be allowed to use public transport) and certain protections to be put in place.
57. We felt it should be high up on the priority of employers and Scottish Government and included as part of a risk assessment. You have health and safety measures and protection within the workplace but there was nothing for protecting the workers to and from their workplace. The Scottish Government did highlight our concerns in their guidelines to employers and for the employers to consider it. It was our expectation that employers would follow this.

Long Covid

58. The issues around long covid is covered well from information given to the Inquiry by the STUC and the evidence by the General Secretary. Our initial concerns were that long covid was covered by the enhanced workplace protections that were suggested to employers in the STUC and Scottish Government Fair Working COVID statement. It covers the fact that latterly we wanted that to continue, and that protection could be enshrined so that long covid is a recognised as an industrial disease and/or automatically considered to be a disability under the Equality Act 2010.
59. When the pandemic was at its height long covid was well recognised and we saw a significant piece of work from the Government. We felt that the initial, helpful, attitude towards long covid tailed off from the Government and from employers. We also felt the amount of protection they were providing to those with long covid also tailed off as time went on. We were happier in the first phase of the pandemic with the Government's treatment of long covid than we were latterly and still are. It is our position that long covid remains a critical issue for workers.

Infection Prevention and Control

60. In relation to infection prevention and control we had multiple reports of issues, that individual unions will also have. Things like people having to fashion their own PPE, PPE not being suitable for many different body types, amongst much else. There was regular misunderstanding, early on, about what type of PPE should be used, when it should be used, who should use it and when it should be changed.
61. We ingathered much information on PPE via our social media website. All of these concerns were reflective of the collective concerns brought by the unions.

Risk Assessments, Investigations, Data Collection and Enforcement

62. We created a health and safety community in conjunction with Scottish Hazards. We had a website where we were attempting to interpret workplace guidance and tried to translate that into what health and safety officials should be doing. We got quite a lot of information directly from health and safety representatives in the unionised settings.
63. What was clear was when you had well understood processes of risk assessments by management and workers, it wasn't difficult to translate the new COVID regulations into those risk assessment processes.

64. When it became difficult was when employers weren't involving worker representatives in health and safety assessments. Prior to the pandemic, when those relationships didn't exist between employers and worker reps or where unions didn't have capacity to meet it, that was where the majority of problems came from.
65. The workplaces that had good union and employer health and safety regimes in place were able to use that and also adapt using solutions to pre-existing issues.
66. The health and safety assessment hierarchy of controls begins with the removal of a hazard from the workplace but given that the workers in the social care sector who might have Covid could not be removed from the workplace, this was particularly difficult in the case of the pandemic.
67. The Health and Safety Executive had to spend a lot of the time trying to remind employers of matters, that quite frankly if systems had been better within the workplace, should have been known. There were different states of readiness in different care homes or social care as illustrated by monthly Care Inspectorate reports which we analysed. These showed wildly differing levels of readiness for and adaptation to the pandemic.
68. It's certainly the case that we received far more individual complaints that we had to elevate from the social care sector and care homes than we did from the mainstream NHS.
69. There are different reasons for that and one is that partnership working with unions within the NHS is far more developed than it is in social care.
70. If you look at the size of the two workforces, the number of workers within social care compared to the NHS, then the proportion of complaints in social care was much higher relative to the size of the workforce.
71. As the pandemic progressed, we were seeing actual data being produced by the Care Inspectorate in terms of the number of complaints and revisits of care homes. We began to note that it was higher in the private sector than it was in the voluntary or direct sector. That data matched with our perception of who was raising concerns with us.

Sick Pay and the Social Care Support Fund

72. Some of the intelligence that we received from individuals, raised questions about pay status and what their expectations were. There were clear messages coming to us that we found quite difficult.
73. People working in social care were deciding to go into work even although they suspected they may have COVID because of financial restrictions. The only responsible advice we could give was that we were sorry that they might lose money, but they shouldn't go into their work. We advised them that we were working hard with the Government to have them optimise any compensation they may be able to receive for that. This was before the implementation of the Social Care Support Fund.
74. Even after the introduction of the Social Care Support fund, there was a lack of clarity and a lack of applicability to people depending on their contractual status. There was uncertainty about how it was supplied and inconsistencies about how it applied to people who weren't working full time hours. This meant there was a whole range of people dealing with the moral decision whether to go into work or not, even if they were unwell. Those occasions did become less frequent as the pandemic progressed but never fully went away because of the financial pressures created by low pay in the sector.
75. It is important to note that employers themselves had to apply for the Social Care Support Fund, which funded sick pay for those who required to take sick leave due to contracting covid or who required to self isolate. Some employers were better at doing it than others.

Self-Employed Health and Social Care Workers

76. Self-employed workers are a growing market. There have not always been this many self-employed health and social care workers. There's a specific model in certain areas that has been growing whereby people are employed by an app. People don't have a named employer that they meet, they just contract to work through their app. These workers are disadvantaged to a certain extent due to this.
77. Some of these workers are employed to provide direct care for people who have applied for self-directed personal support to manage and pay for care for themselves.
78. There are also those who are employed by agencies through apps to do health and social care visits. We also wouldn't describe that type of working as having a normal employer -employee relationship.

Impacts of the pandemic on the Care Sector

79. When talking about the wider health and social care sector it is worth talking about the difference in the representative structure between the NHS and the rest of the health and social care sector with voluntary and private care. For example, if we wanted to discuss a problem within a particular NHS health board, we know exactly who to go to such as a chief executive or senior officer within that health board.
80. When you're dealing with issues within the health and social care out with the NHS, then you are having to deal with a couple of umbrella organisations such as Health and Social Care Scotland and Community Care Providers Scotland. These organisations represent large and small private social care providers or voluntary health and care providers, but they are in a different position when it comes to policy initiatives.
81. If we speak to the NHS about our discourse, whether it be about pay, pensions or health regimes, we know that it can be affected across the NHS estate. But when you are dealing with rest of the health and care sector as it currently exists, then from our perspective, large scale voluntary organisations aren't in a position to force change on the people that they represent so it's a different relationship that has built up between us and the NHS compared to rest of the health and social care sector.
82. Those pre-existing conditions made it more difficult therefore to effect change or compliance across the whole of that sector when the pandemic hit. When you're dealing with the NHS you're dealing with the Scottish NHS and that's it, but some of the organisations within the private or voluntary health and social care sector are national organisations across the UK so it was just additional difficulties for us, the unions, and for Scottish Government to deal with.

Efforts of Unions and Union Representatives

83. Union representatives did sterling work within the health and social care sector during the pandemic.
84. Despite this the nature of high turnover of staff within social care makes it more difficult to maintain a steady union presence in that sector. This makes it difficult to maintain an effective union workplace voice and keeping a structure in place.
85. Health and Safety had historically been quite a gendered sector and the health and safety representation was probably 70 - 80% men. This meant that historically unions would focus on asbestos or industrial issues. However, the health and safety workforce has a high proportion of women

and trade unions are probably still playing catch up with more modern health and safety issues like the menopause, sexual harassment and period poverty. It may be that women's health and safety workers weren't as well represented as they could have been.

86. I think there was an additional pressure on women working within the care sector as many of them had children and they were key workers having to make some difficult decisions as to what was best to do between work and caring for their children and all of the impacts that had. I think some employers could have approached that differently and been more supportive.

Lessons to be Learned

87. It is very difficult to anticipate what may come next and how we need to prepare for it. I would reflect that, at least at the start of the pandemic, the STUC had established relationships in place with the Scottish Government.
88. In terms of preparedness, the STUC, workers, and their representatives would always want to know that we would be on the Scottish Government's immediate shortlist to be consulted if there was another pandemic or an outbreak of flu for example.
89. I think it's very important that the Joint Boards who govern health and social care and the NHS have localised plans as well as there being national plans. We saw during the pandemic that there were many different challenges geographically at different times as well as varying phases of lockdown with different areas affected. For example, Glasgow Health Board compared to Highland Health Board had very differing challenges so I hope that would be looked at by the Inquiry.
90. I also hope the Inquiry look at how the Government should be best prepared and how we all should be. I hope it would look at how it would translate into sub-national preparedness and how the Joint Health boards would operate.
91. We don't just need a National Strategy; we need a blueprint for the development of local representative strategies too.

92. There was great confusion during the pandemic between the role of Health and Safety Executive and the role of local authority health and safety regimes. It was complicated further when the HSE were taking top level UK wide and then Scotland wide positions. The actual inspection regimes are different from that.
93. Our position is that the HSE should have a devolved function just pertaining to Scotland. There should be very clear mechanisms for the Scottish Government to take a view across the local authority and inspection regimes about whose responsibility is what and make sure it is very clear to everyone.
94. There were people making complaints to the HSE, but the HSE could not handle those complaints, as historically there have been limitations of the HSE due to lack of resources to carry out inspections. We would ask the HSE to increase inspections, but in some cases, they stated that the workplaces were not within their purview. In relation to health and social care, whilst HSE were the key organisation for taking a UK wide view on health and safety legislation.
95. There is also, in our view, a need to consider the extent to which the level of powers devolved to Scotland impacted negatively on the Scottish Government's ability to respond to the pandemic and the impact of that on workers.
96. Due to its public safety responsibilities, it was necessary for the Scottish Government and trade unions to engage in detail on setting workplace safety measures for those attending workplaces during the pandemic. However, the effectiveness of these measures was lessened due to the lack of Scottish Government powers over employment law, health and safety law, and equalities laws in Scotland. This was illustrated by the Scottish Government's inability to increase statutory sick pay and by its inability to extend the Health and Safety responsibilities of employers beyond the workplace into areas such as transport to work.
97. The Health and Safety Executive in Scotland seemed to be taking limited responsibility for promoting the workplace guidance issued by the Scottish Government. It is the STUC's view that Scottish Government would have been in a position to act more decisively and effectively during the pandemic and to meet their public health obligations more effectively, had they been in full control of these areas as part of their devolved powers.
98. Trade union workplace representatives reported that they were often left to 'police' workplaces and ensure guidance was followed, as some employers failed to do so and there was no enforcement from Health and Safety Executive or local authority environmental health.

99. I think there needs to be a clearer picture on how health and safety bodies are convened and coordinated As I say, the view of the STUC is that it should be within the Scottish Parliament’s legislative competence.

100.I believe that the facts stated in this witness statement are true. I understand that this statement will form part of the evidence before the Inquiry and be published on the Inquiry’s website.

101.By typing my name and the date below, I accept that this is my signature duly given.

Personal Data

Signed

Date ...19/04/2024.....