Scottish COVID-19 Inquiry

Witness Statement

Statement of **FOYER/Rozanne**

INTRODUCTION

1. My name is Rozanne Foyer, I am 51 years of age, and my date of birth is Personal Data My details are known to The Inquiry.

2. I am General Secretary of the Scottish Trade Unions Congress (STUC). I started in this role on 16th of March 2020. I am the Principal Senior Officer of the STUC. We represent our members' aspirations and concerns as workers and as citizens. We liaise with and coordinate trade unions across Scotland.

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 Pandemic. I am willing to provide a statement, have my information contained within reports and, for my statement to be published.

4. 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. Unprecedented action was taken to restrict individuals' movements, introduce lockdowns and close large parts of the economy. Workers in essential services including health and social care, were called upon to work in the frontline, often putting themselves and their immediate families at risk. This resulted in instances of the tragic deaths of health and social care workers. We ask that these workers and their families are not forgotten throughout this inquiry, and we pay tribute to their sacrifice. This statement relates to the impact on those working within health and social care - the significant impacts on workers in other sectors will be dealt with in subsequent statements to this Inquiry.

5. In my career I have worked at every level within the trade union movement. Over 30 years ago I started out as an elected shop steward and then convener representing workers who were working in the Civil Service. I was then employed by a number of different trade unions covering a wide range of industrial sectors and have undertaken policy and campaigns roles and worked as an industrial organiser and negotiating officer. Prior to taking up my role as STUC General Secretary I worked as a national organising Co-ordinator on behalf of UNITE, the trade union developing and implementing their industrial strategy. I was

also a member of the General Council on behalf of UNITE, for 10 years. This meant I was already familiar with the STUC's aims, policies and campaigns at the point I took up the post.

STUC

6. The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC represents over 545,000 trade union members in Scotland from 42 affiliated trade unions and 20 trade union councils. It is governed by the STUC General Council who are elected annually at STUC Congress. 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 money from the Scottish Government and other sources. We are based at the Margaret Irwin Centre in Bridgeton, Glasgow.

7. 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 and beyond; to support our affiliates to educate, agitate, organize and build a movement for change in our workplaces and communities.

8. The STUC focuses campaigns and lobbying on all devolved matters including education, health and social care, local government and transport.

9. The STUC maintains a formal relationship with the TUC, Wales TUC and Irish Congress of Trade Unions through the Council of the Isles. The STUC works in partnership with the TUC on non-devolved areas of policy. The STUC also lobbies and campaigns directly with Westminster on UK non-devolved policy issues when deemed necessary or appropriate by our affiliates.

10. The STUC was established in 1897 and is a key civic organisation in Scotland. Successive Scottish Governments since devolution in 1999 have actively engaged with the STUC, albeit taking a variety of approaches. The current Scottish Government has a stated aim for Scotland to become a leading Fair Work nation by 2025. This framework identifies the value placed on trade unions as the effective voice of workers in Scotland and

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

11. The STUC represents members through our affiliated trade unions and works councils. The affiliated unions with a material interest in the health and social care sector are set out in Appendix A.

12. This statement reflects views from various health trade unions noted when quoted directly.

STUC DURING THE PANDEMIC

13. As a result of the pandemic, there were huge capacity issues for us at the STUC. We moved to home working and were able to make that work. However, the timelines we were often expected to work to, for example 24-hour turnaround on feedback to the Scottish Government when consulted, were almost impossible at times. In order for the STUC to get an accurate picture of what was happening "on the ground" we required to consult with our affiliates and they in turn had to discuss matters with their reps in workplaces across Scotland. It is usual for trades union reps to carry out their trade union duties, alongside their paid employment. This meant that key individuals were not always immediately available to discuss matters or provide feedback. This is too often forgotten or does not register in the minds of decision makers. For employers and Government this was their full-time job. For trades union reps they were often doing this on top of their jobs.

14. This is all before you consider that everyone was going through all sorts of issues as individuals, but also with their families, related to the pandemic. For example, my parents had their social care packages withdrawn so I was caring for them as well as undertaking my full-time role. Many of our members, and our own staff across the trade union movement, were in similar positions and had similar stresses. All of this added to the strain of the situation.

15. The STUC worked with agility, but these deadlines and demands did take its toll on staff. We were trying to support our reps and convey the needs of our members to Scottish Government in a coherent and evidenced way but with very little resources to be able to do it.

16. Pre-pandemic the STUC had fewer meetings and they were all face-to-face. When the pandemic started, we went into crisis mode. We set up all our staff to fully work from home with the technology required. The trade unions started to meet more often but on WebEx and then Microsoft Teams rather than in person. At the start we were meeting with the government twice a week. We met almost daily with unions in different

sectors to determine what the key issues on the agendas with government would be. People were working more closely across trade unions and we had to do our best to keep up the communication. We really understood that this was a massive issue for our members.

17. As a small organisation we were suddenly faced with a range of financial challenges. At the start of the pandemic our new premises were being built and became subject to huge delays. We were renting temporary accommodation but I cancelled the lease on that quite quickly. Without an office, we were homeless for a while but had robust home working practices. Had we not been making those savings on homeworking our financial situation could have been different. We are a small organisation and do not have funds sitting there for a rainy day. Most of our budget goes on staff and we do not have huge reserves to mitigate such unforeseen situations.

18. With regard to shielding, we had a couple of individuals that had specific needs and we were careful to make sure that we dealt with them in an appropriate way. It is important to me that, as a trade union, we walk the walk as well as talk the talk when it comes to being a good employer. We did appropriate risk assessments and when we went back to the office we implemented a four-day week with one day at home. This was negotiated in partnership to meet the needs of the organisation.

19. In terms of career progression and recruitment, we took on a number of people during the pandemic. There were several appointments made at all levels. We recruited over Zoom and Teams. There were some staff who had worked with us for a year before they met their colleagues in person. We had to make time, particularly for newer and younger members of staff, to structure the work planning. It was maybe one of their first jobs and the things they would pick up just by being around colleagues was not necessarily available to them. We took a lot of time and effort to make sure team members did not feel isolated. It can be quite an isolating experience to work from home and especially for someone just finding their feet. We were very alive to that. I felt that myself being new to the post at the start of the pandemic. I was in the office for two days before we sent everyone home. I made a point of meeting every staff member twice a year in one to one online meetings to get to know them. That was difficult at the beginning.

STUC Work on Behalf of Members and Brief Overview of Engagement with the Scottish Government

20. The STUC was uniquely placed to gather information, identify concerns and offer advice due to our representative structures covering every part of the private, voluntary and public sector in Scotland. Its representative

structure enabled direct reporting and feedback from key workers who were delivering emergency and essential services. Jointly with affiliates we worked quickly to utilise pre-existing structures and established internal processes to support engagement with the Scottish Government.

21. In addition, we established new processes, for example, utilising an active social media strategy through which workers were asked to report directly to us regarding specific concerns.

22. We also established the COVID Group with the Scottish Government and this allowed the STUC to meet with Scottish Government Cabinet Secretaries, Ministers and civil servants from the onset of the pandemic. The first meeting was with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture on 5 March 2020. Regular meetings were then convened with the Cabinet Secretary, later with Ministers, and a range of representatives from our larger affiliated unions. These meetings became known as 'COVID Group meetings' and, when relevant, included Scottish Government Health and Social Care Directorate and Public Health Scotland. These continued throughout the pandemic. Initially they were held twice weekly, before moving to weekly and then monthly, and the last meeting was held on 22 March 2022.

23. Ministers and officials welcomed this approach and we believe it provided them with factual and experiential evidence to inform their decisions. This included a variety of matters, for example, workplace health and safety concerns; financial impact on those we represent; non-workplace public health concerns, such as key workers travelling to work; the experience of union members working in compliance, for example health and safety officers; lack of financial support for certain individuals, for example taxi drivers; the difficulties and issues faced by care workers; and also the raising issues of persistent non-compliance by employers where escalation to Scottish Government became necessary.

24. These concerns were primarily fed to the Scottish Government via the COVID Group meetings, but also through other avenues such as the Safer Workplaces advisory group established by the Scottish Government, on which the STUC was represented. Most of the feedback to Government was verbal, but there are minutes retained for internal use only from the COVID Group. The Scottish Government would thereafter create a list of actions to be agreed, and a system to track progress.

25. Our role was to highlight the key issues which government and the affected affiliated union would take forward themselves. Given the volume of issues arising, at our request the Scottish Government, we agreed to establish a hotline to allow individual concerns to be raised directly with them to manage the number of matters to be raised and addressed via at the COVID Group meetings.

26. In addition to the COVID Group meetings the STUC carried out a significant amount of work on behalf of its members. We met directly with a number of Scottish Government Ministers, Cabinet Secretaries or civil servants as and when required throughout the pandemic, and regularly wrote to and liaised with them to raise issues and concerns, comment on proposals, highlight key challenges for certain types of workers, and to input into and influence guidance and responses to the pandemic. In addition, we consulted on and reviewed draft guidance, collated members' responses to draft guidance. We issued press releases and statements, conducted online surveys, issued reports on those surveys, , held regular meetings between Scottish Government and unions from specific sectors, prepared briefing papers, hosted on-line conferences on best practice, offered comment on draft legislation, and raised issues/discrepancies in relation to data collection.

27. There was also a specific email address provided by Scottish Government to allow unions to report specific cases where guidance was not being upheld.

28. Full details of the STUC's interaction with the Scottish Government are being provided to the Inquiry.

29. In addition, many of our affiliated unions were directly engaged with the Scottish Government. They were involved in industrial sector meetings including Workforce Leadership Group which consisted of NHS employers, trade unions, professional organisations and relevant Scottish Government departments related to health and social care. Similarly, members from affiliated unions sat on the Safer Workplaces Advisory Group, and on other response groups, such as gold, silver and bronze command within NHS health boards. They also sat on working groups, such as the working group establishing the Social Care Support Fund scheme. Affiliated unions will have also had their own communications directly with the Scottish Government.

Impact of Scottish Government Consultation and Engagement

30. The STUC was given good access to Scottish Government and efforts were made by Scottish Government to build effective communications channels so that workers concerns could be raised and to discuss any issues or problems on the ground at the different stages of the government's COVID response as they emerged. These interventions and highlighting of issues did result in a number of improvements to Scottish Government's policy and the type of guidance being implemented. For example:

a. PPE – we highlighted the issue of availability and quality of PPE for workers. We also input into guidance on suitable PPE across various sectors.

b. Sick pay scheme - we called for, and delivered, sickness absence payments to workers across social care to minimise the issue of workers being unable to afford taking sick leave due to covid, with the possibly of carrying the virus into their workplace in a high-risk environment.

c. Additional payments secured for particular groups of workers such as creative industry freelancers and taxi drivers, who werenot covered by the UK government's furlough scheme.

d. The input we provided on additional safety guidance produced for sectors on specific measures around social distancing screening, ventilation and cleaning, which were effectively used by reps on the ground to influence employers.

e. The Fair Work coronavirus statement. This set out a number of key standards expected of Fair Work employers in relation to their COVID response and was used effectively by trade union representatives on the ground to improve conditions for staff, not least by ensuring that those suffering from long COVID suffered no detriment.

f. The whistleblowing line that allowed us to report specific cases where guidance was not being upheld and resulted in a number of interventions from Scottish Government to highlight guidance to employers who were not following it.

g. Adjustments to the public messaging from government on key safety issues in direct response to issues we had raised. On occasion the First Minister's briefings included key messaging urging employers to encourage employees to engage with the testing, and track and trace programmes, or to follow the COVID workplace safety guidance.

31. Overall, we believe that the engagement the Scottish Government maintained with trade unions about its response to the pandemic at all stages did make a positive difference. Further, as a result of that engagement, the response of government in Scotland was more agile and placed more emphasis on public safety before profits than the UK government did, and lives were undoubtedly saved as a result.

32. However, there were also many examples of where we did not feel adequately resourced to keep up with the speed of engagement. When

we were given little to no time to respond adequately to complex documents or to ensure representatives with the right level of expertise about a key sector were present for meaningful dialogue, or that the decision had been made elsewhere, prior to consultation, or regardless of our view on the issue.

33. For example, there were many instances of decisions being made to close schools in our opinion too late, or reopening too early, and we did not get any real input into the model used for roll-out of vaccine, where teaching unions were arguing that frontline educators should be given the same early protection as frontline health workers. There were also many occasions where the STUC raised serious concerns and had heated and robust exchanges with Scottish Government ministers about decisions made that in our view lacked appropriate consultation or were taken despite opposition from our members to them. In summary the engagement was good, it was better than at UK level, but still had lots of room for improvement.

34. There are definitely lessons that can be learned from the above about the need for Scottish Government, when engaging so intensely with stakeholders, to ensure that work is put into ensuring that the organisations being engaged with are given assistance with their capacity and infrastructure to engage meaningfully and at pace.

35. There was a notable lack of engagement with trade unions on a regular basis about how to deal with the pandemic by government at a UK level and in our opinion this very different approach contributed to a very regrettable disparity between policy at UK and at devolved government level. However, despite the differences in engagement, access and in a range of reactive policies, it is the view of the STUC that both governments were complicit in a catastrophic failure to adequately protect their citizens, and in particular frontline workers who delivered essential services from the onset of the pandemic.

Healthcare system in Scotland before the COVID-19 pandemic

36. Scotland's pandemic planning, preparedness and resilience at the start of the COVID-19 pandemic was significantly impacted by years of underfunding across Scotland's public services. Since 2010 the UK Government had adopted an austerity programme in theory to cut government debt. This programme resulted in cuts to government budgets, freezing or cutting benefits, increasing selected taxes and holding down public sector pay. The resulting reduction in budgets and staffing levels across the public sector in Scotland created conditions which hampered pandemic responses in health and social care.

37. The Scottish Government integrated health and social care in 2016 and while NHS Scotland staffing levels have not suffered similar cuts as local authorities and other public sector agencies, we recognise that the health sector does not stand alone within the public sector. Intense pressure from staffing levels and fragmented service provision in social care and local authorities directly impact the performance of the health service in Scotland. Leading up to the pandemic the care sector had been operating on ever-finer margins while attempting to meet the increasing needs of an ageing population.

38. Austerity impacted the resilience and capacity of public services with the NHS and care sector already in crisis. The longstanding challenges of funding and demand outstripping available capacity are well known. Going into the pandemic much of the sector was already overstretched and operating beyond capacity.

39. Austerity also impacted on the ability of the various enforcement bodies responsible for workplaces safety and the enforcement of guidance and measures issued by government in response to the pandemic.

Pre-Pandemic Planning

40. The lack of pre-pandemic planning was also one of the key factors affecting impact on workers.

41. Pandemic planning in Scotland (and indeed the UK) was predominantly focused on influenza -type viruses. This is concerning because the existence of coronavirus was already known about. Such outbreaks occurred in 2002 (SARS), 2009 (Swine flu) and 2012 (MERS). Exercise Silver Swan was delivered during the latter part of 2015 as a series of "table top" exercises across Scotland that focussed on "Health and Social Care, Excess Deaths, Business Continuity and Coordination". The Report was published in April 2016. Key findings can be found on page 9 of the Report. I note the following from those findings:

42. *"1.1 All Health Boards, Local Authorities and Health and Social Care Partnerships should review their pandemic plans, including those for prioritising services in a pandemic. Plans must be scalable for different levels of pressure on services. (See also 1.4) 1.2 The Scottish Government should review national plans to ensure learning from the exercise is incorporated. 1.3 Scottish Government should review internal planning arrangements for influenza pandemics to ensure they are sufficiently robust. 1.4 RRPs should ensure that a comprehensive, multi-agency planning framework is in place to respond to influenza pandemics of varying severities, including overseeing the production of multi-agency pandemic influenza plans, which include Health and Social Care*

Partnerships. 1.5 In line with existing frameworks, all plans should be subject to regular review and exercising".

43. The initial response to COVID 19 also failed to consider, and recognise, the potential for aerosol transmission of the virus so that the health measures initially put in place focused on other precautions such as handwashing rather than on the provision of equipment such as masks for the general public and PPE for front line workers. That was the case notwithstanding recommendations that derived from UK exercises in 2016 and 2018 (in particular Cygnus and Iris) about stockpiling PPE and provision of training in the use thereof.

44. Any future pandemic planning should include consultation with, and input from, organisations with a material interest which from the perspective of workers should default to trade unions where they are present. Unions will be able to assist in identifying particular issues or matters requiring consideration, including in particular measures necessary to anticipate and mitigate the disproportionate impacts on particular groups.

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

45. Increased levels of stress and anxiety and a deterioration in workers mental health was commonly reported to the STUC from trade unions across all sectors. This applied to key workers who were often put at significant risks to provide health and social care services. Workers in health and social care committed themselves to their work and those they cared for. Many encountered unprecedented levels of death and suffering in doing so.

46. A Unite Scotland survey of NHS members reported in August 2020 stated that the workforce was at breaking point: "*Around four out of every five NHS worker is working beyond their contracted hours and experiencing acute staff shortages. The scale of the problem is unsustainable, and the workforce is at breaking point".* A copy of this report has been provided to the Inquiry.

47. GMB Scotland reported on a survey of members in social care in April 2020 where 80% of members had not had any contact from their employer about mental health support and 86% of members thought that not enough support was in place to help cope with mental health during the crisis so far: *"For many months the mental health concerns of members were ignored as they dealt with serious risk to their own and their families' health".*

48. The Pharmacists' Defence Association (PDA) reported in their survey of members: *"Surveys of pharmacists' health and wellbeing undertaken*

during the COVID-19 pandemic showed high levels of burnout of up to 89% amongst pharmacists and their teams, significantly higher than pre-pandemic".

49. Unison Scotland reported in June 2020 on "Underlying Inequalities & Infection Risk - Black Workers & COVID19" providing a specific risk assessment tool for BAME workers". A copy of this has been provided to the Inquiry.

50. The STUC lobbied the Scottish Government and pressed for employers to provide financial, well-being, mental health and other support to healthcare staff during the pandemic. We were successful in agreeing the Coronavirus Fair Work statement with Scottish Government which included financial protection for public sector workers including health and social care: *"No worker should be financially penalised for following medical advice. Any absence relating to COVID-19 should not affect future sick pay entitlement or other entitlements like holiday or accrued time".*

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

52. The Royal College of Midwives noted a range of issues during the pandemic including PPE, Shielding and Social Distancing which contributed to members' mental health: *"All of these issues placed our members at increased risk of exposure and high stress and anxiety, likely to have increased overall absence and exacerbate the cycle of stress and absence across the workforce and overall burnout".*

53. The Royal College of Podiatry noted the cumulation of issues related to the pandemic took a significant impact on members: *"Members were exhausted both physically and mentally".*

54. STUC members reported the impact this also had on workers, patient care and patient safety with GMB Scotland reporting: *"Inadequately trained nurses asked to work in Intensive Care Units and deal with critically ill dying patients. This caused mental trauma and stress resulting in PTSD for some staff".*

55. The Royal College of Midwives reported on the shift to community provision of maternity services to reduce hospital admissions and contact with health care staff. This placed further burden on staff and *"impacted on the quality of care as well as the health and wellbeing of staff and families".*

56. The Pharmacists Defence Association (PDA) noted alarming reports from community pharmacists where the risk of no pharmacist in attendance was not balanced against workers health and safety: *pharmacists testing positive for COVID-19 and then being pressurised by management to stay at their post until their employer could arrange for another pharmacist to come and complete their shift". "These companies attempted to run some pharmacies with no pharmacist present at all, with one pharmacist at the end of a phone supervising activity, and magnifying the biggest risk of all to patients which is a pharmacy with no pharmacist".*

57. Unite Scotland reported the impact on health care provision: *"NHS ward closures in some areas due to staff shortage relating to COVID related absence".*

58. Recruitment and retention levels have been negatively impacted by COVID 19 as evidenced by the Scottish Government's announcement to invest an additional £15 million to address staffing shortages in the NHS.

59. Many staff in the healthcare sector were required to assist in other disciplines or move to acute services. This caused additional stress and anxiety given they were working in unfamiliar fields, but also due to the professional risks in doing so. Whilst the NHS offered comfort in terms of professional risk, that does not and did not disapply their professional obligations to the professional bodies to which staff belong and are regulated by.

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

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

62. On entering the pandemic the care sector was already operating with difficulties in recruiting and retaining care workers. During the pandemic, with inevitable isolations from COVID infections, care workers were operating with the minimal of staffing numbers and with many working additional hours to ensure adequate care was provided. Staff were left overstretched and exhausted but continued in their roles out of duty and to serve those they cared about. They were often frustrated and distressed by the additional duties required of them and they felt serious discomfort that residents in care homes were not being afforded the stimulation and interactions they required as part of their care.

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

64. The Pharmacists Défense Association (PDA) reported: *"Many pharmacists reported a decline in the number employed in their wider teams as many support staff left".*

65. The Royal College of Midwives (RCM) noted: *"It has been observed and reported that many staff who were able to but not necessarily planning to, took a decision to retire as a consequence of their experiences during the pandemic".*

66. A Unison Scotland survey of social care workers in 2021 reported in "The Burnout Pandemic dated February 2022" (provided to the Inquiry) that sickness absence as the main reason for staffing shortages which in turn were caused by stress, burnout, COVID and Long Covid. A staggering 96% of staff who took part in the survey reported staffing shortages.

Exposure to Infection and Worker Deaths

67. Health and social care workers were committed to their roles and were in the front line to protect the health of others. They were placed at great risk to themselves, and endured a high exposure to infection, particularly given the limitations on suitable PPE. In terms of exposure, some available data seems to suggest that the rate of self-reported COVID-19 believed to have been caused by exposure at work is around four times higher amongst workers in health and social care compared to the average rate in workers across all industries. *["The Case for the remit for a Covid-19 Public Inquiry in Scotland to Include a Focus on Workplaces, Occupations and Workers by Professor Phil Taylor, University of Strathclyde; https://www.hse.gov.uk/statistics/coronavirus/index.htm]*

68. Many workers paid the ultimate price in losing their lives as a result of many having caught COVID-19 in their workplaces. This had catastrophic consequences for families and also for colleagues at work.

69. There is insufficient data on worker deaths during the pandemic and available data can be difficult to reconcile. A large factor in this is due to significant under-reporting of workplace deaths, with many employers assuming that transmission was community-based as opposed to being contracted in the workplace and resulting in the under-reporting of workplace deaths under RIDDOR. This is more fully explored in the sections later on in this document as are our actions to raise this to the Scottish Government.

70. Some available data suggests that a disproportionately high number of those who died from COVID were engaged in the care sector as compared to the average for all occupations. [*"How Coronavirus has Affected Equality and Human Rights October 2020 by the Equality and Human Rights Commission, p35, and National; and National Records for Scotland - https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-report-week-32.pdf]*

71. Other research suggests that differences in mortality rates across occupations reflect both occupational risks and the social class gradient in underlying health. It notes that this stands out as you move from the higher-status end of the classification (Managers, director and senior officials) to the lower end (Cleaners and domestic workers). That research also suggests that in Scotland exceptionally higher mortality rates were recorded among men in what it termed 'elementary service occupations' in which it included kitchen and catering staff and hospital porters. It also notes that, when compared to England, there were lower mortality rates among men in Scotland working as 'health professionals (medical practitioners, nurses and pharmacists) and in 'caring personal services' (nursing auxiliaries and assistants, ambulance staff) and in care workers. [*The Case for the remit for a Covid-19 Public Inquiry in Scotland to Include a Focus on Workplaces, Occupations and Workers by Professor Phil Taylor, University of Strathclyde; https://www.adruk.org/fileadmin/uploads/adruk/Documents/Data_Insights/Data_Insights_Occupation_and_Covid-19_deaths_in_Scotland_December_2021.pdf*

72. We would therefore ask the Inquiry to examine and investigate the levels and distributions of occupational mortality in Scotland together with the causes of such variations with a particular focus on the issue of preventable exposure.

Long Covid

73. It is also vital to highlight that given the high levels of exposure to the virus many health and social care workers are now living with Long Covid, which has impacted heavily on those affected. They have endured, and continue to endure, life-changing impacts on their health and on their personal and family lives and many fear for the future. Many are unable

to return to work full-time and have seen careers falter while living in fear of losing their jobs through capability dismissal. Others have already lost their jobs.

74. Those affected have endured, and will continue to endure, economic and financial hardship when any sick pay provision ends. In addition, there is no meaningful state support; shamefully, Long Covid is not yet recognised as an occupational disease and this deprives workers of valuable Industrial Injuries Disablement Benefit (which should be remedied) to assist them or recourse to industrial injury claims. Likewise, Long Covid is not automatically recognised as a disability under the Equality Act 2010.

75. It is estimated that over 175,000 people in Scotland have reported symptoms of Long Covid. Social care workers make up 5.72% of those with Long Covid and 4.45% are health care workers. While these percentages are UK statistics we would expect them to reflect similar totals for Scotland. https://spice-spotlight.scot/2023/02/08/long-covid-where-are-we-now/

76. The Scottish Government has pledged £10 million to support NHS boards across Scotland offer services for patients with Long Covid. However, this is spread over a three-year period and there are 14 regional health boards in Scotland.

77. The STUC has worked with a volunteer-led charity, Long Covid Scotland, to raise awareness of the condition, highlight the complexities of diagnosis and support workplace representatives to support members who are suffering from Long Covid. Long Covid Scotland have taken part in panels and given presentations to STUC conferences and events. Representatives of the STUC Disabled Workers Committee have attended the Scottish Parliament Cross Party Group on Long Covid. We have promoted the TUC's research and reports on Long Covid and hosted equality representative and equality officer network sessions on the topic of Long COVID.

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

79. In line with the Fair Work Statement agreed between the STUC and the Scottish Government at the outset of the pandemic, and in line with the Scottish Government's principles at the time, any absences from work which were related to COVID-19 should be disregarded for HR absence management policies and procedures. The Scottish Government approached the STUC in April 2022 requesting we review their proposed

changes to the Coronavirus (COVID-19) Fair Work statement which included removing the protection for workers with Long COVID as it suggested: *"If an absence becomes long-term and is categorised on a fit note as post-COVID-19 syndrome, the absence from that point in time should be managed in the same way as other long-term absences".*

80. Following consultation with the COVID Group we prepared a robust response: *"Further, we have significant concerns regarding the proposed changes around payment which remove protection for workers suffering from post-COVID-19 (Long Covid). We request the existing wording around the "no detriment" principle should remain and apply to all COVID related absences; those arising from isolation, short-term illness and Long-Covid. Allowing employers to treat absences related to long COVID in the same way as other long term illnesses leaves workers at risk of rigorous attendance management processes, financial detriment, and potential capability dismissals".*

81. The protection, contained within the Fair Work Statement, from the approach to COVID-related absence ended on 31 August 2022 such that any such absence could be included as part of overall sickness absences, removing the previous guidance which sought to protect those with Long Covid.

Infection Prevention and Control

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

83. GMB Scotland reported concerns of staff working in NHS Scotland who were being asked to clean contaminated rooms without proper PPE and Scottish Ambulance Service workers had no cleaning materials provided to clean down vehicles after each patient.

84. The Chartered Society of Physiotherapy (CSP) noted concern amongst members over the definition of AGPs stating: "*the international consensus was that transmission of the virus was airborne rather than through droplets and contact as initially thought, was not fully reflected in national*

infection, prevention and control (IPC) guidance[1]". The CSP concluded that IPC guidance failed to recognise many physiotherapy interventions as generating aerosols.

85. Some unions reported concerns around workplace health and safety as some services moved away from usual workplaces to service provision in patients' homes, e.g, maternity and podiatry, where there was no risk assessments for workers.

86. The Pharmacists Defence Association (PDA) also received reports from pharmacists providing evidence of failure by pharmacy owners to carry out risk assessments of premises or of staff, some owners were slow to put into place physical constraints of entry to pharmacies, or to enable social distancing or that patients and carers wore face coverings.

87. In April 2022 one pharmacy chain advised their Scottish staff that they could choose to work even if they had COVID-19, in total contravention of the guidance issued by the Scottish government. Only after the Pharmacists Defence Association (PDA) raised this, and a question was asked in the Scottish Parliament was this resolved.

88. When workers raised serious concerns around workplace safety and the failure of guidance to fully protect them, or their employer failed to implement the guidance, unions advised members to use health and safety law instead. In these instances unions advised members to utilise the protection afforded to workers under the Employment Rights Act Section 44 which allows them to take appropriate steps to protect themselves from serious or imminent danger. In one example, Unite Scotland advised members in the Scottish Ambulance Service to use Section 44 of the Act if no suitable PPE was issued.

89. We were aware of reports from trade unions at an early stage of the pandemic that staff in a variety of health and social care settings were not receiving PPE. This was raised with the Scottish Government frequently in meetings including with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture, on 24 March 2020, when we made her aware that ambulance workers were about to run out of masks. Meetings with the Scottish Government and unions representing health and social care workers took place separately from COVID Group meetings. Issues were progressed in detail at the Health and Social Care meetings with updates provided to the COVID Group meetings or issues escalated if still outstanding.

90. We conducted an online survey in the last week of March 2020 and reported that over half of respondents required to work didn't feel safe with 42% saying they did not have access to adequate PPE.

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91. We received a copy of the draft Scottish Government PPE Action Plan on 29 September 2020 asking for feedback and comments to be returned by 30 September 2020. The plan contained a note of the roles and responsibilities of employers, the action being taken to support social care staff and outlining plans for the period ahead. We collated responses from members of the COVID Group and responded on issues related to Fair Work and procurement of PPE.

92. Separate groups were set up by the Scottish Government to address issues related to PPE in social care and manufacturing and supply. Public lobbying included an open letter from GMB Scotland to Nicola Sturgeon, First Minister about the lack of PPE in social care on 4th April 2020.

93. Trade union representatives were involved in these groups while the STUC was not directly represented. The Scottish Government set out to address the early issues with overall supply with a range of Scottish companies repurposing their manufacturing to supply PPE.

94. As part of a later STUC research project published in April 2021, "Who is winning from COVID" by Laurie MacFarlane and Christine Berry, the researchers outlined the Scottish manufacturing response to PPE supply and highlighted the lack of evidence around procurement and the enforcement of companies taking a "Fair Work First" approach.

95. The limited supply of PPE caused significant distress and anxiety to health and social care staff. All health and social care affiliates raised concerns on this issue and can evidence the difficulties it caused members. Concerns include workers being asked to re-use PPE, buy their own PPE, lack of PPE, inconsistent supply of PPE, out of date PPE, ill-fitting PPE, no options for safe disposal of PPE, managers or employers restricting use of PPE, employers demanding staff justify why they needed PPE, managers locking PPE away from workers, differing approaches for workers providing services in the community and Scottish Government statements not matching with the reality of workers experiences who were delivering health and social care.

96. Unite Scotland and GMB Scotland reported on out of date PPE being issued to health and social care staff. This included a GMB report of a whistle blowing complaint in the Scottish Ambulance Service where out of date PPE was issued with old expiry dates which had been covered up.

97. The RCM reported: *"In particular FFP3 masks were reported to be 'rationed' with conflicting advice or guidance on the scenarios in which they should be used and issues with accessing or achieving appropriate fitting. It was felt that advice was often cost/supply driven as opposed to being based on the highest level of protection. Furthermore, there was*

reports of supplies not being in English, which left staff feeling less confident in using correctly".

98. The Pharmacists' Defence Association (PDA) reported inconsistent advice in community and hospital pharmacies, and also differing advice for locum pharmacists: *"There were also reports of locum pharmacists being instructed not to wear PPE they had sourced themselves, and in contrast there was other evidence of locum pharmacists being forbidden to use PPE provided to pharmacies and told to acquire their own".*

99. Suitability and proper fitting of PPE masks was raised by the STUC at COVID Group meetings and by affiliates in various forums with the Scottish Government and employers. Unite Scotland noted that ill-fitting FFP3 masks would cause workers skin to flare up and bruise. The CSP noted that securing appropriate PPE was challenging as it was made for a default male body and face and this not the default health care worker.

100. Similarly, Prison Officers Association Scotland, noted significant concerns around the lack of PPE, lack of clarity on guidance for PPE for both their members and prisoners which considering the close proximity of contact was essential to protect workers and prisoners.

101. Specific issues were raised by the Royal College of Midwives (RCM) around the provision of PPE in maternity services: *"challenges with access to supplies of PPE, alongside the lack of clarity and guidance in relation to how to best protect themselves and others from the exposure and spread of a virus with such unknown impact, yet high level concern. It was immediately apparent that the high level of uncertainty and anxiety put immense pressure on all areas of the workforce to access face masks and adopt social distancing and increased hand washing. Our members reported delays in receiving adequate supplies, resulting in the reuse of disposable masks that had been handled and concerns about engaging with staff and patients who did not have or wear any. This was further exacerbated with the inclusion of face shields, which were felt to be less accessible and washing/ reuse of same was then encouraged as considered adequate for protection. Staff felt this to be related to supply/costs as opposed to providing the highest level of infection control……… Many staff experienced trauma through the continual and long-term use of masks, with reports of skins reactions, panic attacks and overheating alongside the more obvious communication barrier".*

Risk Assessments, Investigations, Data Collection and Enforcement

102. Unite Scotland informed the STUC of concerns they had in relation to risk assessments:

a. The risk assessments carried out at the outset of the COVID-19 pandemic were based on the guidance provided by Scottish and UK Governments which were often lacking in detail. These included the continuing changes to the use of PPE, who and what PPE had to be worn, the differences between Aerosol Generating Procedures (AGPs), surgical staff, ICU staff, general ward staff and the domestics and support services staff including portering. In the early days of the pandemic this led to misunderstandings and misapplication of the guidance.

b. The risk assessments also included guidance on social distancing, protective screens, placements of hand hygiene dispensers and face masks. Whilst the initial groundwork was undertaken to ensure social distancing was in place, there were very few follow up visits to ensure it was being adhered to. These included the difficulties in policing changing room facilities, nurse stations and initially dining rooms. This was also difficult to police where there was no complete oversight of staff breaks which could and should have been staggered similar to staff start/stop times for shift patterns.

c. Staff working in the community such as health visitors, district nursing teams and similar were advised to undertake individual risk assessments before entering patients' homes. However, it would be reasonable to say that the training to allow staff to safely undertake risk assessments was never in place. This led to an increased risk for community staff who in the early part of the pandemic were also sharing pool cars which, again, increased the risk significantly of infection.

103. Unite Scotland also raised concerns with the Scottish Government that proper investigations were not being carried out in relation to the outbreaks of COVID-19 in healthcare settings and explained to us: *"Within Scottish healthcare settings, when an infectious disease outbreak occurs, this would be investigated and managed through a problem assessment group which includes Infection Protection Control staff, Occupational H&S, clinical staff including the ward manager, medical staff and staff side representatives. These meetings look at the timelines of the first infection, the movement of all patients, the rotas of staff working within the infected area which gives a very clear oversight in to how the infection entered the area, who all was involved, and clear timelines. The problem assessment group would also implement any measures to contain the outbreak. Taking into consideration the amount of outbreaks within healthcare settings and the frequency of outbreaks, it was impossible to run PAGs for every outbreak and this resulted in COVID Outbreak oversight groups reporting the outbreaks and numbers involved,*

it was unable to manage or control the outbreaks which we believe led to increased infection rates within hospital settings. If you combine this situation with the lack of RIDDOR investigations, the significant pressure within hospital services, there was very little in place to allow for learning to stop and prevent the future outbreaks which allowed the virus to run out of control".

104. The STUC had significant concerns around collection of, and discrepancies in, data on workplace transmission of COVID-19. That was raised with Richard Lochhead, Minister for Just Transition, Employment and Fair Work, on 25 November 2021. We shared these concerns with the Minister along with the TUC report "RIDDOR, COVID and under-reporting" published 23 May 2021.

105. Unions raised the issue of under-reporting and data discrepancies at numerous meetings with Scottish Government. Unite Scotland noted: *"It is our contention that the under reporting of workplace COVID cases via RIDDOR presented an inaccurate picture, influenced the taking of wrong decisions and is, therefore, likely to have contributed to COVID cases and, subsequently Long COVID cases, which could have been avoided".*

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

107. There was also a lack of adequate resourcing for implementation and monitoring of safety guidance and other COVID related emergency measures. This meant that these were not adequately enforced across employers due to years of underfunding of areas including the Health and Safety Executive and Environmental Health Officers employed by local authorities. It became evident that there was a huge skills gap in these areas when it was most needed.

108. There is also, in our view, a need to consider to what extent 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. For example, 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 health and safety law and employment laws in Scotland. For example, the Health and Safety Executive in Scotland seemed to be taking no responsibility for promoting or enforcing the workplace guidance issued by the Scottish Government; likewise, the Scottish Government could not compel employers to use Social Care Support Fund and/or

ensure care workers were provided with full pay if off sick for Covid-related reasons. 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.

109. 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.

110. Following extensive research into workplace outbreaks in Scotland conducted by Prof Phil Taylor, University of Strathclyde, he notes: *"the HSE have chosen to issue guidance that is largely devoid of references to the extensive legal duties that are imposed on employers in respect of the protection of workers and of the penalties associated with a failure to comply with them".*

111. We fully support amendments to legislation to recognise COVID-19 as an occupational disease. The lack of testing and use of robust test and trace procedures during the pandemic, particularly in the early stages, have shown the difficulty in evidencing workplace transmission. However, the number of deaths amongst health and social care workers is disproportionate compared to other employment sectors and roles.

112. We firmly believe that those workers delivering essential services in health and social care were put at risk while carrying out their roles and in some instances this has resulted in the tragic loss of life. One nursing trade union rep described the impact of the loss of a colleague: *"we saw a big change in staff when we lost one of our own who was a valued member of our district nursing and out of hour service. They were always bright and bubbly and her patients loved her visiting them as she brought kindness and compassion. To me this was the point that it hit home for a lot of staff members as to how serious this was going to be, staff were becoming frightened as to what they were stepping into each day doing their job and what they could be taking home to their own family members".*

113. The failure to consider COVID-19 as an occupational disease has also impacted on workers who have contracted Long Covid. The lack of acknowledgement and formal reporting of Long Covid as an occupational disease limits workers protection and rights to claim compensation and relevant benefits.

Sick Pay

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

115. We made an initial request to Kate Forbes, Cabinet Secretary for Finance, by letter of 12 March 2020 asking for employers in receipt of government support to commit (among other things) to provide full pay to workers who are off sick or self-isolating from covid-19.

116. In addition, we were working with Scottish Government officials to draft a statement on Fair Work. This was discussed at a meeting with Fiona Hyslop on 24 March 2020 where we agreed to promote the statement with a joint press release. The resulting Coronavirus (COVID-19) Fair Work statement was issued on 25 March 2020 and gave a number of assurances on supporting workers to follow public health advice and on sick pay: *"the success of Test and Protect depends on employers supporting workers to self-isolate when advised to do so, without any financial detriment";* and *"no worker should be financially penalised for following medical advice. Any absence relating to COVID-19 should not affect future sick pay entitlement or other entitlement like holiday or accrued time".* A copy of this joint statement has been provided to the Inquiry.

117. At a meeting with Jeanne Freeman, Cabinet Secretary for Health and Sport and Jason Leitch, Scottish Government National Clinical Director on 13th May 2020 we raised the issue of sick pay, in particular providing feedback from social care where the note of the meeting states: *"in terms of care homes, whole home testing and that the levels of positive tests for those showing no symptoms is coming back high. ..... also advised that they are picking up from the workforce, that workers are afraid of being tested in case they test positive and therefore end up in isolation at home on SSP".*

118. The Cabinet Secretary noted that care workers are on low wages and agreed to further consider the issue. On 24 May 2020, she announced funding for social care workers to receive enhanced sick pay when they are self-isolating following a positive COVID-19 test. This meant that care workers would be paid in full if absent from work due to covid-19 or self-isolation. The resulting Social Care Support Fund was extended on several occasions until 31 March 2023. (the termination of which is now a matter

of deep concern across social care unions as it suggests key lessons arising from the pandemic have not been learned.)

119. Unfortunately, some employers did not apply for funding to cover sick pay despite Scottish Government providing financial support and there was some confusion on who the fund covered. GMB Scotland note: *"Employers interpreted guidance differently. It was not clear which members should be paid and the amounts to be paid….Some employers continue to 'misinterpret' guidance and fail to pay wages until they have claimed monies from Scottish Government. This has resulted in hardship to our members".*

Self-Employed Healthcare Workers

120. Self-employed workers were further disadvantaged as they were excluded from furlough payments and other forms of financial support. This impacted a range of workers including locum pharmacists and self-employed podiatrists.

121. Self-employed women who had recently given birth were also impacted financially. We understand that support for self-employed workers was based on the average of previous three years' income – but no allowance was made for those who had been on maternity leave during that period, in which they will have reduced earnings in the form of Maternity Allowance.

Violence and Abuse

122. Violence and abuse was also a significant area of concern during the pandemic as workers dealt with patients and members of the public who were often frustrated, angry or frightened. This resulted in increased levels of aggressive and abusive behaviour towards workers.

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

The Care Sector

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

125. In 2019 the Fair Work Convention published their report on social care in Scotland, "Fair Work in Scotland's Social Care Sector". The report outlined the main challenges in social care including the undervaluing of social care work, low pay and problems with recruitment and retention.

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

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

128. The structural complexity and use of private profit-seeking providers in social care undermines the stability of the sector and did not provide a resilient basis for the sector when the pandemic arrived. The care service is fragmented across Scotland with a large number of providers and lack of union recognition which compared to the NHS results in a lack of structure for sharing of information and guidance. The use of agency staff to supplement NHS staff leads to increased costs for NHS and does not offer value for money for public funding.

129. The fragmented nature of the private care sector impacted on its ability to respond to the pandemic, with the lack of organisational structures and centralised decision-making, making it particularly less able to quickly implement the necessary measures and ensure measures were being adopted and adhered to. We would therefore recommend that the Inquiry investigate and consider the particularly acute difficulties experienced in this sector as compared to the NHS or publicly funded social care, including but not limited to staffing levels, reduced funding,

operating on fine margins, poor terms and conditions, lack of PPE, fragmented and inconsistent interpretation and implementation of government mitigation measures, and a relative lack of adequate whistleblowing structures. Many of these issues were highlighted and documented by the Scottish Government's report "Care Home Review – 1 November 2020 (A rapid review of factors relevant to the management of COVID-19 in the care home environment in Scotland)"..

130. It is the STUC's position that there should be an end to for-profit delivery of social care and increased funding across health and social care in Scotland to support the recruitment and retention of staff.

131. We will provide the Inquiry with a number of academic papers which evidence that unionised workforces fared better in the pandemic than those without union recognition.

Efforts of Unions and Union Representatives

132. Trade union representatives across health and social care worked tirelessly during the pandemic to carry out their own substantive roles whilst taking on the added responsibilities of their union duties. They regularly worked significantly long hours, often in their own time, to assist members and employers throughout the pandemic.

133. Their ability to identify, report, raise concerns and work towards solutions on behalf of members contributed to the effective delivery of services and safer workplaces. Health and safety representatives, along with workplace representatives provided essential information and protection to workers, often when official communications and guidance were contradictory or lacking. The reporting structure within unions resulted in an effective channel for concerns to be raised quickly from the workplace to the STUC and onto Scottish Government.

134. As outlined previously, 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.

135. Unions themselves engaged with government and raised awareness of the issues of workers, and committed significant efforts to influencing, consulting on and reviewing draft guidance, and assisting in the production of necessary practice notes flowing from guidance.

136. The efforts and commitment of our affiliated unions and their union representatives during the pandemic must be acknowledged.

137. The relative lack of union recognition in private/third sector care will have reduced many of these benefits and the ability of unions to intervene and assist. Notwithstanding that, unions with members in this sector endeavoured to engage employers and support workers.

138. We would therefore recommend that the Inquiry investigate and consider the disproportionate impact on the care sector and its ability to respond to the pandemic. It is the STUC's position that health and social care employers should be required to ensure trade union access is granted to workplaces, collective bargaining is introduced in social care and trade union representation becomes the default for workers representation.

Protected Characteristics and Disproportionate Impact

139. Various issues arose during the pandemic that impacted groups of workers with protected characteristics, including those listed below.

i. Around 80% of frontline workers in health and social care during the pandemic were women.

ii. The lack of testing and PPE for social care workers where the workforce is predominantly women (around 83%) with a higher proportion of black and minority ethnic workers and older workers.

iii. Some PPE is designed for men, for example face mask, which reduced the protections afforded to women.

iv. Research suggests that differences in mortality rates across occupations reflect both occupational risks and the social class gradient in underlying health. It notes that this stands out as you move from the higher-status end of the classification (Managers, director and senior officials) to the lower end (Cleaners and domestic workers). (See references at paras 67, 70 and 71).

v. The requirement to retain mandatory face coverings to protect workers with underlying health conditions and disabilities.

vi. The lack of childcare and closure of schools, childminders and nurseries impacting on working parents where women are more likely to have childcare responsibilities and resulting in their inability to attend work with no compensation.

vii. The lack of elder care impacting on unpaid carers, again usually working women family members.

viii. The delay in providing and applying guidance for pregnant workers.

ix. The low uptake of vaccination amongst black and minority ethnic workers.

x. The lack of employers offering individual risk assessments to older workers.

140. The detrimental impact that shielding had on the mental health of workers with underlying health conditions who were protected physically by shielding but became isolated and demoralised. This was further exacerbated where duties were re-assigned resulting in de-skilling.

141. Members reported anecdotally that a higher percentage of black and minority ethnic workers had contracted COVID and in some instances this proved to be fatal. This was evidenced by National Statistics who reported in November 2021 that: *"Deaths amongst people with Pakistani ethnicity were 3.7 times as likely to involve COVID-19 as deaths among those with White Scottish ethnicity. Deaths amongst people with Other Asian ethnicity were three times as likely and deaths among those with Chinese and Indian ethnicities were both 1.7 times as likely to involve COVID-19 as deaths in those with White Scottish ethnicity".* [https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-21-report-week-45.pdf at page 16]

142. Concerns were raised around the granularity of data recorded for black and minority ethnic workers. We first raised this as an issue with Scottish Government following the release of a letter to the First Minister from the STUC Black Workers Committee on 22nd May 2020, stating: "*Black and Minority Ethnic Workers are employed at a higher rate within the key workers category identified by Government and yet are more likely to be paid less than their white counterparts. They are over-represented in roles and jobs which put them at even greater risk to being exposed to illness and disease …….. we are calling upon the Scottish Government to take urgent action to ensure that they immediately record, analyse, and publish the disaggregated data on the number of Black and Ethnic Minority (BME) deaths in Scotland that have occurred as a consequence of COVID -19. Record, analyse and publish the disaggregated data on how COVID 19 has affected Black and Minority Ethnic communities".*

143. Similar concerns were raised early in the pandemic by the Coalition for Racial Equality and Rights who noted: "*The divergence in data practices between Scotland and the rest of the UK isn't acceptable, and the excuse that minority ethnic communities here are small in number will no longer stand. If anything, this makes it more important to have robust and comprehensive data collection".* https://www.crer.org.uk/blog/covid-19-and-ethnicity-in-scotland-wheres-the-data

144. This issue was highlighted again at later stages of the pandemic in relation to disaggregated data on vaccine take up for black and minority ethnic workers. We would recommend that work is undertaken to ensure resources and systems are in place to provide adequate and disaggregated data for black and minority ethnic workers in Scotland.

145. A report prepared by Unison summarised the experiences of black workers and provided recommendations for employers and government to support black workers during the pandemic. We have provided a copy of this to the Inquiry.

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

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

148. The Scottish Pensioners Forum represents older workers and following a survey in October 2020 concluded that employers failed to recognise that older workers were often taking on additional caring responsibilities for elderly parents, children and grandchildren and accommodate flexible working to support caring responsibilities.

Lessons Learned

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

However, the lack of control over health and safety and employment law often limited the response, actions and funding that the STUC and Scottish Government agreed were required.

150. It is the STUC's position that employment law and health and safety legislation should be devolved to the Scottish Parliament. We would therefore recommend the inquiry investigate and note the impact of Scottish Government's inability to fully respond to the pandemic without full control of health and safety law and employment laws.

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

152. In 2019 the Fair Work Convention published their report on social care in Scotland, "Fair Work in Scotland's Social Care Sector". The report outlined the main challenges in social care including the undervaluing of social care work, low pay and problems with recruitment and retention.

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

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

155. The structural complexity and use of private profit-seeking providers in social care undermines the stability of the sector and did not provide a resilient basis for the sector when the pandemic arrived. The use of agency staff to supplement NHS staff leads to increased costs for NHS and does not offer value for money for public funding.

156. It is the STUC's position that a proposed National Care Service should see an end to for-profit delivery of social care with increased funding across health and social care in Scotland to support the recruitment and

retention of staff. We would recommend the inquiry investigate and note the pre-existing challenges in the structure of social care provision and the limitation this created in responding to the pandemic and in implementing and enforcing measures and interventions.

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

158. It is the STUC's position that health and social care employers are required to ensure trade union access is granted to workplaces, collective bargaining is introduced in social care and trade union representation becomes the default for workers representation. We would recommend that the inquiry investigate and note the impact on the response to the pandemic where there is limited trade union access and representation.

159. We need to highlight that Long Covid is an industrial injury issue. We had a Fair Work statement that gave some protection to employees with Long Covid. When you look at the demographics of the people most likely to contract Long Covid, and the work that they were carrying out, I think there is clear evidence that people were contracting COVID-19 in the workplaces. For all those who lost their lives because of that, and for those still affected due to Long Covid, we really need to think about this as an industrial injury issue and grant access to industrial injuries benefits and compensation for those affected.

160. The Social Care Support Fund, which was set up to ensure low paid workers in the sector could access full sick pay if taking time off rather than taking infections into their workplace due to financial hardship, was terminated on 31ST March 2023. This is a matter of grave concern and suggests that the lessons of the pandemic are already being forgotten. This fund needs to be reintroduced immediately.

Hopes for the Inquiry

161. We feel that there are so many workers who put themselves and their families at risk and our biggest hope is for their stories to be told. We want their experiences to be remembered and we want action taken to make things easier for any worker that may be put in that position in the

future. We cannot forget what they have been through and must make sure that they do not ever go through that again. Our biggest overarching hope is to recognise the position that many workers were put in for a prolonged period of time, which was unacceptable.

162. That had a lot to do with the resources available. In our view underfunding of the public sector is not sustainable. It was not just about the doctors and the nurses, it was about the delivery drivers, the postal workers, the shop workers. So many workers were essential, including care workers. There was almost a hidden frontline of key essential workers, and it is important that their stories are told and their experiences understood.

Signed ………………………………

Date ……………………………….

APPENDIX A

Affiliated Trade Unions with a Material Interest in Health and Social Care

British Dietetic Association

British & Irish Orthoptic Society

Chartered Society of Physiotherapy

FDA

GMB

Hospital Consultants and Specialists Association

Prison Officers Association Scotland

Pharmacist Defence Association

The Royal College of Midwives

Royal College of Podiatry

Society of Radiographers

Unison

Unite the Union

Scottish Pensioners Forum