

## THE UK COVID-19 INQUIRY

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### RESPONSE OF THE TRADE UNIONS CONGRESS (TUC) TO THE DRAFT TERMS OF REFERENCE

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#### INTRODUCTION

1. This is the response of the Trade Unions Congress (“TUC”) to the consultation upon the draft Terms of Reference (“ToR”) for the UK Covid-19 Inquiry, *“the independent inquiry to examine the Covid-19 pandemic in the UK.”*<sup>1</sup>
2. The TUC has 48 members unions, each of which is listed as an annex to this submission (“Annex 1”). The TUC exists to support its member unions and the members of those unions. In doing so, it brings together 5.5 million working people who belong to the member unions. It seeks, more broadly, to stand up for everyone who works for a living, by publishing research and evidence, and campaigning for changes to the law and in society. It seeks to put working people at the heart of our society, economy and politics.
3. The member unions of the TUC span a wide array of sectors, across the UK, all of which were affected by the pandemic. For the purposes of the Covid-19 Inquiry (“the Inquiry”), the TUC seeks to bring forward the experiences and expertise of the member unions for the benefit of the Inquiry, not only at this stage of the consultation on the draft ToR, but also through the life of the Inquiry. The member unions of the TUC are at liberty to file individual responses to the consultation upon the ToR, and some have done so. However, the TUC itself has established a working group to seek

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<sup>1</sup> Description from the UK-Covid 19 Inquiry website, <https://covid19.public-inquiry.uk/>

to take forward, as fully and insofar as possible in an all-encompassing way, the interests, expertise and experiences of the member unions.

4. The TUC firmly hopes that this Inquiry will be an opportunity, grasped fully and fearlessly, to examine the impact of the pandemic upon working people in a number of sectors, and to learn some vitally important lessons for the future.
5. As a second Annex to this consultation response, the TUC has provided a suggested amended draft ToR, with additions and amendments indicated in red. What follows is an explanation for each of the proposed amendments. It is also structured around the four questions posed in the consultation.
6. The TUC has refrained from suggesting a ToR that would be its own preference, or from seeking changes that would transform the scope of the Inquiry from the initial draft ToR. It has sought to limit the proposed changes to those which are truly necessary in order to ensure that issues of crucial importance, across the UK, are addressed within the Inquiry. The TUC has in mind the indication in Baroness Hallett's open letter of it being important that the ToR *"properly reflect the public's concerns."*
7. There are a number of matters which the TUC wishes to acknowledge, at the outset of these submissions:
  - (a) First, the draft ToR *do* already include very significant matters which quite properly fall within the scope of the Inquiry. That is encouraging. There are, however, some crucial matters that are currently excluded.
  - (b) Second, it is acknowledged and accepted that ToR for a public inquiry do not need to delve into the minutiae and can be drafted at a high level: indeed, many public inquiries have had very short and open-ended ToR. There are many detailed points and issues of vital importance to the TUC which do not appear in the current draft, but we do not address them in these submissions as we anticipate these matters arising at a later stage, when the Inquiry is underway and the Chair is considering matters such as scope and sequencing.

- (c) Third, the TUC is grateful for the fact that this public consultation is taking place, as part of the process of consultation between Prime Minister and Chair under s. 5(4), Inquiries Act 2005. The TUC strongly agrees with the principles set out in Baroness Hallett's open letter which announced this process. This is a welcome commitment to transparency and inclusiveness which the TUC wholeheartedly supports. Such transparency and inclusiveness is particularly important in this context, both because the nature and scale of the Covid-19 pandemic was that it impacted upon every single person in the UK, and also because this is a situation in which decision-making by the Minister setting out the ToR, the Prime Minister, it itself likely to fall within the Inquiry's remit.

## SUMMARY

8. The TUC does invite the draft ToR to be expanded in some respects. Overall, the TUC is concerned that the current draft wording appears relatively broad (given, for example, the long list of sub-bullet points under the first section of paragraph 1), but upon careful reading there are many restrictions and limitations.
9. Some changes to the wording are suggested to avoid the Inquiry being inappropriately limited (and perhaps inadvertently so). For example:
- (a) Amendments which ensure that the Inquiry can examine events post-dating the formal setting up of the Inquiry, to the extent necessary. The wording in the opening paragraph of the draft ToR suggests that the cut-off point for evidence will be the setting up date, which would be absurd, and indeed is contradicted by other wording later in the draft. This wording should be amended;
- (b) Amendments which empower the Inquiry to "*report*" on the response to the pandemic rather than "*produce a factual narrative account*". At present, paragraph 1 in its entirety is focused upon producing a factual narrative account only. This phrasing would appear to require a neutral and non-judgmental account. Whilst establishing a trusted, comprehensive factual narrative is an important part of the Inquiry's work, the Inquiry must also be able to go beyond that: to analyse, to

assess, and so on. Preferable wording would be that the Inquiry should “report,” a more general term which allows leeway to the Chair to take decisions at a later stage regarding how best to approach her task

- (c) An amendment which makes clear that the Inquiry is empowered to engage in lesson learning beyond the specific context of preparedness for future pandemics, where such opportunity arises on the evidence. At present, the wording of paragraph 2 is limiting, suggesting that only recommendations relating to pandemic preparedness should be made. This could exclude lesson learning in relation to other matters – by way of example, on issues such as procurement processes or support for victims of long Covid. A small tweak to the wording of paragraph 2 addresses this (replacing “thereby” with “including”) and, again, allows leeway to the Chair to conduct her role as she sees fit within the bounds of the statutory framework.

10. In respect of the first bullet point of part 1, the draft ToR requires an examination of public health decision making and its consequences on a number of different areas identified in ‘sub-bullet points’. That is welcome, but those areas should be expanded to include the effectiveness of safety authorities such as the Health and Safety Executive in monitoring and enforcing workplace health and safety; the use and adequacy of guidance given by governments to employers; the capacity and use of manufacturing within the UK for the production of key equipment; and, an examination of other sectors including retail, transport, key central and local government departments, the construction industry, the aviation industry, creative industries, and communications industry.
11. Of significant concern to the TUC is that the only ‘deep dive’ into the response of a specific sector, beyond looking through the lens of central public health decision making, is in health and social care.
12. There should certainly be a ‘deep dive’ in respect of education. Against the barometer of public concern, education could not be higher. The impact of restrictions on school attendance and alternative approaches to qualifications was vast, not only on pupils,

but also upon educational institutions and their staff. The need to support vulnerable pupils was significant. There are also critical issues of safety measures taken in schools and the relationship between school and community transmission of the virus. Such issues will inevitably arise in any future pandemic and failing to examine them properly in this Inquiry will be a terrible missed opportunity to learn vital lessons for the future.

13. There should also be ‘deep dives’ into the impact on and response of the transport sector, the manufacturing sector (including in particular the food processing and textiles industry), and the retail sector (including online retail). All of those sectors were significantly affected by the pandemic, and many of the workers within them faced increased risk of loss of life and severe hardship. There are a number of compelling reasons for including a detailed examination of these sectors, as part of this Inquiry:

- (a) The people who have responded to the pandemic have frequently been those on the lowest rates of pay and those on insecure employment contracts: shop workers, warehouse and factory workers, cleaners, bus drivers, delivery drivers, and so on. Those members of our society were heroic in the role they played in keeping society going through the depths of the pandemic. They faced huge sacrifice and pressures. The Inquiry is in danger of side-lining what was a significant part of the nation’s response to the pandemic.
- (b) Workers in these sectors often suffered from poor measures to safeguard their health. They will, inevitably, be at high risk of facing similar peril in any future pandemic. Accordingly, as with education, absent a detailed examination into these sectors a critical opportunity to learn valuable lessons will have been lost.
- (c) It is in these sectors that much of the uneven impact of the pandemic was revealed. The draft ToR, quite rightly, requires consideration of the disparities evident in the impact of the pandemic and the state’s response, including in relation to protected characteristics under the Equality Act 2010. However, in reality, the Inquiry will only reveal one part of that uneven impact if the only ‘deep dive’ is in respect of

health and care. Much of the uneven impact exists in these sectors. The ONS indicates that compared with the rate among people of the same sex and age, men working in the lowest skilled occupations had the highest rate of death involving coronavirus. Groups with significantly elevated rates of death include males working as taxi drivers and chauffeurs; bus and coach drivers; chefs; and sales and retail assistants. That must be examined by the Inquiry.

- (d) The story of some of the problems in these sectors were apparent in northern parts of England, and in Wales, Scotland and Northern Ireland. A detailed examination of these sectors will be an important part of ensuring that the Inquiry avoids being London or England centric.
- (e) The selected sectors, which we explain further below, also raise other issues which would allow the Inquiry to consider pandemic preparedness and other generic topics in more depth. They have been carefully selected by the TUC to represent a range of issues, which would not otherwise be addressed by a deep dive into the health and care sector only.

#### **QUESTION 1: DO THE INQUIRY'S DRAFT TERMS OF REFERENCE COVER ALL THE AREAS THAT YOU THINK SHOULD BE ADDRESSED BY THE INQUIRY?**

- 14. In short, no. The TUC does not consider the current draft ToR cover all the areas which should be addressed by the Inquiry.
- 15. What follows addresses each of the suggested additions or amendments to the draft ToR at Annex 2, indicated in red, and in the order that they appear in the draft ToR. It must, therefore, be read alongside the TUC amended version at Annex 2.

#### **The preamble**

- 16. The TUC is concerned that the limit of the Inquiry only examining matters up to and including the formal setting-up date is arbitrary and may prove to be problematic. It is important that the Inquiry is able to fully consider the implications of society 'living with covid' in the longer term. Further, circumstances may arise beyond the formal

setting-up date which may be necessary for the Inquiry to examine in order to inform, in particular, the making of recommendations. Such circumstances would include, for example, a significant change in the course of the pandemic (e.g. a significant resurgence or decline in case numbers, new and different variants, etc) and public health responses to those changes. The suggested changes to the ToR would clarify that the Inquiry could examine matters post-dating the formal setting up date, at least to the extent necessary to fulfil its objectives.

### **Section 1: the first bullet point**

17. It is understood that under the first bullet point of section 1 it is envisaged that the inquiry will focus upon the decision making of central, devolved, and local public health decision-making and its consequences. Such decision making is and should be a central focus of the Inquiry. The TUC considers all of the sub-bullet points to be relevant, but there are a number of significant omissions such that the sub-bullet should be expanded as follows:

*Proposed addition: the effectiveness of the safety authorities, such as the Health and Safety Executive and Office of Rail and Road, and local authorities, in monitoring and enforcing the management of workplace health and safety standards during the pandemic*

18. As set out further below, workers in a number of sectors faced increased risk of contracting the virus as compared with the general population. There are, of course, mechanisms intended to monitor and enforce compliance with health and safety standards. However, the experience of many unions and their members was that during the course of the pandemic workers were largely abandoned by regulators, in part as a consequence of chronic underfunding.
19. For example, the Health and Safety Executive (HSE) is Britain's independent regulator for workplace health and safety. Its primary duties include proposing health and safety regulation and ensuring compliance. On 11<sup>th</sup> May 2020 the Prime Minister stated that: "We are going to insist that businesses across this country look after their workers and are covid-secure and covid-compliant. The Health and Safety Executive will be enforcing

*that, and we will have spot inspections to make sure that businesses are keeping their employees safe.”<sup>2</sup>*

20. By early June 2020 the HSE had received over 6,000 additional concerns from workers about social distancing and other pandemic related matters. The impression of the unions was that the HSE response fell woefully short, and that is supported by the HSE’s own reporting of its response.<sup>3</sup> Significantly, of over 6,000 concerns:

- (a) 2,684 were passed to HSE ‘field teams’ for follow up;
- (b) Of those, 1,331 were considered to require no further action;
- (c) In 581 case the action was limited to verbal advice (512) or a letter (69);
- (d) Only 47 concerns were responded to with a physical inspection, and one prohibition notice was served.

21. That is striking: six months into a pandemic which had terrible consequences in so many workplaces, the HSE had conducted 47 site visits and issued 1 prohibition notice. It was wholly inadequate. The HSE also confirmed that it had not conducted a single inspection of a care home since 20<sup>th</sup> March 2020, although it *“continues to receive concerns about worker safety issues related to coronavirus in care homes and is actively investigating these”*. As was observed by the commons select committee on work and pensions, the *“HSE has received thousands of concerns from people concerned about safety at work during the pandemic. It has required just one business to close. It has not, however, inspected a single care home since 10 March 2020. Without records of the number of businesses that have closed voluntarily after an intervention by HSE, it is impossible to get a clear picture of the impact its work has had.”<sup>4</sup>*

22. Whilst on 11<sup>th</sup> May 2020 the Prime Minister had described a system of ‘spot checks’ to ensure safety in workplaces, including with an additional £14million of funding for

<sup>2</sup> HC Deb, 11 May 2020, [col 34](#) [Commons Chamber]

<sup>3</sup> See the evidence provided by the HSE at

<https://committees.parliament.uk/publications/1428/documents/13029/default/>

<sup>4</sup> [DWP's response to the coronavirus outbreak - Work and Pensions Committee - House of Commons \(parliament.uk\)](#)

the HSE, by June 2020 the HSE was able to say no more than the vague assertion that it *“has started a programme of interventions to check how businesses are implementing social distancing.”*

23. The inability of the HSE in responding to the pandemic were highlighted in the report of the Institute of Employment Rights, *HSE and Covid at work: a case of regulatory failure* (March 2021).<sup>5</sup> Those difficulties must be seen, however, against a background of chronic underfunding and lack of capacity. The HSE and local authorities (as the other primary workplace safety regulator) have suffered enormous funding cuts in the last ten years. In 2009/10, the HSE received £231 million from the Government, and in 2019/20, it received just £123 million: a reduction of 54% in ten years. Less funding means fewer inspections: over the same ten-year period, the number fell by 70%, and over a twenty-year period, the number of prosecutions has fallen by 91%. The Government's £14million fixed-term grant to HSE has not increased the number of inspectors. Instead, most of these funds have gone to contractors who are unwarranted, lacking a right of entry to workplaces or any enforcement powers, and they do not have the specialist health and safety knowledge of trained HSE inspectors. Long-term, adequate funding of safety regulation is required if society is to keep workplaces safe and ensure employers who break the rules face the necessary consequences.
24. A similar story can be told of other regulators, such as the Office of Rail and Road, and also of local authorities, in premises allocated to local authorities under the Health and Safety (Enforcing Authority) Regulations 1998.
25. When the next pandemic arrives, the same question as to the responsibility and effectiveness of mechanisms to ensure safety in the workplace will arise. It must be addressed as part of this Inquiry, in order to ensure that the appropriate lessons are learned.

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<sup>5</sup> See [HSE and Covid at work: A case of regulatory failure - IER](#)

***Proposed addition: the use and adequacy of guidance given by central government to employers***

26. The ToR already recognise the need to examine the public health decision making of central governments and “how decisions were made, communicated and implemented.” A crucial aspect of public health decision making was the guidance given as to public health measures, both generally in society and at places of work. An examination is required as to the timeliness and effectiveness of such guidance, and the lessons to be learnt.

***Proposed addition: the capacity and use of manufacturing within the UK for the production of key equipment***

27. The urgent procurement of sufficient volume and quality of PPE was evidently a significant challenge. There was huge frustration at the apparent inability to make use of potential within the UK for the manufacturing of PPE. There were some exceptions. Numatic, for example, a company known for making ‘Henry’ vacuum cleaners, developed face shields and assisted in providing NHS staff with essential PPE.
28. However, hundreds of UK companies queued up to offer supply and services in this area to the government, but in many instances were ignored. This was not just an opportunity to support British manufacturing; it was an opportunity for speedy procurement of quality and urgently needed PPE equipment. In some instances, UK companies were left to export stock to other countries. That is an important part of the lessons from procurement of PPE which should be examined as part of the Inquiry.

***Proposed addition: “the use and effectiveness of” testing and contract tracing***

29. The ToR should make explicit that the Inquiry will assess the effectiveness of testing and contract tracing such that appropriate lessons can be learnt for future pandemics.

***Proposed deletion: ~~restrictions on attendance at places of education~~***

30. As below, the TUC considers that examining education simply in the context of public health decision making is insufficient. The complexity and significance of the issues were, on any view, of significant public concern. It warrants careful consideration of what happened at all levels of education and its consequences. The need for lesson

learning is acute. It warrants a focus (a 'deep dive') in the same way as at the ToR envisages in respect of the health and care sector. Education is therefore addressed further below. If the ToR are not amended as suggested and education remains within the first bullet point then, at the very least, it must be expanded beyond restrictions on attendance at places of education.

*Proposed addition: the creative industries*

31. The creative industries contributed over £111billion to the UK economy prior to 2020 and the expectation is that will grow in future years. They were also one of the worst hit sectors during the pandemic. Theatres and live events were the first to close and the last to open and experienced huge problems with staffing even when they began to open again.
32. Freelance members working in the creative industries were more likely to be impacted by the gaps in the Government's financial support schemes and suffered extreme financial hardship as a result. Many members who work in film and TV and in Theatre are employed as short term PAYE employees and so unless they happened to be on a contract on the relevant dates and the employer was prepared to furlough them they missed out on furlough payments. Freelancers who operate as a limited company paying themselves through dividends were likely not to be able to claim the Self Employed Income Support Scheme. This is the pattern of engagement in film and TV and not a matter of choice.
33. Despite the lobbying of trade unions and others in the creative industries the Government failed to address these structural problems causing massive hardship to many creatives and causing an exodus from the industries. There were equality impacts highlighted by groups such as Pregnant Then Screwed.
34. The Government backed insurance scheme for film and TV and the safety protocols which were influenced by unions helped filming begin to return in July 2020. Unfortunately a similar insurance scheme was not provided to support Theatres and Live Events, despite sector lobbying. This badly impacted the industry.

35. We note, in addition, that this has been a topic of public concern, and a thorough Inquiry which is addressing key matters related to the Covid-19 pandemic and the response should consider this issue.

***Proposed addition: key central and local government departments such as DWP, HMRC, environment and refuse, and social services***

36. The ToR, quite rightly, envisages an examination of the public health decision making of central and local governments during the pandemic. One facet of that is that many in central and local government not only continued to work, but many could not work from home and were exposed to greater risks in the course of the pandemic. Workers in key public services in environment and refuse collection continued to work, as did social services. The consequences on these areas of work should be included within the ToR.

***Proposed addition: construction industry***

37. As of March 2020 the pandemic was of a severity to warrant a national lockdown, but construction was one of the few industries permitted to continue. On 24<sup>th</sup> March 2020, the day after the announcement of the first lockdown, Matt Hancock stated that construction should continue if workers maintained social distancing of two metres.
38. A significant proportion of construction sites did, in the event, close, but by mid-April 2020 were increasingly beginning to re-open. The Construction Leadership Council (CLC) issued revised guidance which said that where workers were required to work within two metres of each other they should “*work side by side, or facing away from each other, rather than face to face.*” Further, when workers have to work “*face to face*” and within two metres, that should be kept “*to 15 minutes or less where possible.*” The guidance was said to be based on guidance from Public Health England. It is striking that within a month of the national lockdown, guidance was given which envisaged construction workers working face-to-face for periods of 15 minutes. Unite wrote to the Secretary of State for Business, Energy and Industrial Strategy warning that the guidance “*undermines the safety of workers on construction sites*” and might “*become a contributory factor to the spread of Covid-19 in our communities.*” It is possible that part of the apparently lackadaisical approach to safety of construction workers was a

misapprehension that construction predominantly takes place outside and in a comparatively safer environment in the context of transmission of a virus. The reality is that a great deal of construction takes place inside, often in poorly ventilated areas.

39. Notwithstanding the evident risks associated with pushing on with construction in the very early stages of the pandemic, construction workers were not included within provision for Covid-19 testing. Unite was aware that the availability and use of PPE equipment on construction sites was generally poor. That all had consequences not only for construction workers and their families, but in respect of community transmission generally.
40. By around July 2020 the CLC's site operating procedures (SOPs) not only envisaged working without social distancing, but advised that when social distancing was not possible *"workplaces should not encourage the precautionary use of extra PPE to protect against Coronavirus"*.<sup>6</sup> That was in absurd disregard to the obvious risks. It resulted in the perverse scenario in which some major developers were insistent upon PPE, but the national bodies purportedly responsible for safety were dissuading them from doing so.<sup>7</sup>
41. There ought to be significant concern as to the role played by CLC and HSE in monitoring and enforcing safety standards. The experience of Unite was that on some larger sites, particularly where Unite had been actively involved, there were more effective 'Covid safe' working practices, but such measures on smaller sites and in the domestic sector were weak or non-existent.
42. Significantly, the re-opening of construction posed a significant and early risk not only to construction workers but also to transport workers. On 19<sup>th</sup> April 2020 (on the eve of a number of London construction sites being scheduled to reopen) Unite was urging that there was a need to stagger open times to avoid congestion and the spread of the virus on London's bus and transport system, noting that *"more than 20 transport workers*

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<sup>6</sup> Emphasis added

<sup>7</sup> As revealed by a Unite Survey and responses from Balfour Beatty, Galliford Try, Mace and Interserve: as described in a Unite press-release of 9<sup>th</sup> July 2020

*in London have died from coronavirus, with the majority of victims working as bus drivers”.*

It was noted that construction workers would similarly be put at risk.

43. By December 2020 Unite was sufficiently concerned as to safety on construction sites that it published a comprehensive guide to help ensure the safety of construction workers.
44. Even though construction generally closed for shorter periods than other sectors, for many the financial impact was significant. As of 2019 1.03 million construction workers were paid via the Construction Industry Scheme (for a many a contrived form of self-employment) and a further 300,000 via umbrella companies. Those workers were therefore excluded from the government initial employee assistance scheme. Throughout the pandemic, construction workers have frequently been unable to self-isolate due to financial reasons as they did not qualify for the job retention scheme, self-employment grants or extra payments for self-isolating.
45. It can be seen that the experience of the construction sector during the pandemic raises important issues of public concern regarding the risks faced by those working in construction, the various facets of maintaining health and safety on construction sites (including government and regulatory guidance and the role of regulatory bodies), the extent to which construction played a role in community transmission, and the financial consequences for those working in construction.

***Proposed addition: aviation industry***

46. The restrictions on travel during the pandemic had a huge impact upon the aviation industry and workers within it.
47. Aviation forms a significant part of the economy. Heathrow, for example, directly employs over 80,000 and hosts 320 business, making it the largest workplace in Europe. Indirectly it supports around 190,000 jobs across the UK.<sup>8</sup>

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<sup>8</sup> Unite research published in May 2020 estimated that Heathrow generates £9.7 billion in income, supporting around 190,000 jobs across the UK, 40% of the workforce in the surrounding area is employed in the aviation sector.

48. On 30<sup>th</sup> June 2020 Airbus announced that it was cutting 1,727 jobs. 1,116 of those jobs were in manufacturing, including at factories at Broughton in North Wales and Filton in Bristol. On 6<sup>th</sup> August 2020, Unite reported that around 60,000 redundancies had already been announced at airlines, airports and other aviation-related business, but the government *“is yet to implement a plan to secure the sector’s recovery.”* The TUC and all aviation unions called upon the government to adopt a number of economic and fiscal measures, including extensions to the job retention scheme, suspension of air passenger duty, business rate relief, and extending the repayment period of loans to aviation companies.<sup>9</sup>
49. In September 2020 Virgin Atlantic announced plans to cut a further 1,150 jobs, notwithstanding having been able to privately arrange a £1.2bn rescue deal. At the same time, an analysis by Unite estimated that 6,600 workers based at Gatwick airport, employed directly or in supply chains, had either lost their jobs or were at risk of redundancy.
50. There were numerous other instances of significant job losses, including at East Midlands airport<sup>10</sup>, GE Aviation<sup>11</sup>, Luton airport<sup>12</sup>, Norwegian Air workers at Gatwick<sup>13</sup>.
51. Key aspects of public health decision making were around restriction on aviation and the safeguarding measures in place. Differing and frequently changing restrictions were placed on different destinations. It caused huge confusion and uncertainty and compounded rather than alleviated the impact on the aviation sector. The impact on families facing late cancelled or foreshortened holidays was significant. As described by Unite on 4<sup>th</sup> September 2020, *“the government’s aviation policy since the lockdown in March has been one of hand-wringing and confusion, with the ‘on-off’ quarantine measures affecting numerous countries changing almost daily.”*

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<sup>9</sup> See, for example, Unite’s urgent summer update of 2020 to its ‘Flying into the Future’ blueprint

<sup>10</sup> 70 job losses announced in October 2020

<sup>11</sup> 142 redundancies announced in October 2020

<sup>12</sup> Baggage and airport logistics company Menzies announced 176 redundancies at Luton Airport in September 2020

<sup>13</sup> 1,000 redundancies announced in January 2020 following Norwegian Air’s collapse into insolvency

52. Subsequently, the controversy turned to the introduction of quarantine hotels, the use of which was an extraordinary measure which placed further downward pressure on the aviation sector and imposed significant burdens on travellers required to remain in designated hotels, at their own expense.
53. The government was frequently challenged to improve its support for the aviation centre but failed to rise to that challenge. In comparison, extended job retention programmes in countries such as France, Spain and Germany were able to significantly reduce the comparative impact. Thus, on 17<sup>th</sup> March 2021 Unite published research indicating that the UK had suffered twice the jobs losses in aviation and related industries than France and Germany had in the preceding year, with an estimated 5,164 UK aviation and related jobs being lost every month since February 2020. However, on a per job basis, the French and German government had given twice the financial support.
54. The government actions around the aviation industry were key aspects of public health decision making, and these were issues of significant public concern, both within the UK and internationally. The industry should be explicitly identified within the ToR.

***Proposed addition: communications industry***

55. Those in the communications industry, many represented by the CWU, were deemed key workers by the government, and worked tirelessly to keep essential public services functioning throughout various lockdowns and through several iterations of Covid-19 restrictions. Whilst protective equipment was in short supply, and leaving the house meant risking their lives, communications workers carried on their work ensuring that vital services and communications continued to function.
56. Workers in the industry, such as postal workers, fell ill, and many died or have had to continue to live with the long-term consequences of Covid-19. The extent of death and illness in the industry is not yet known. ONS data demonstrates that occupations with higher death rates include postal workers and mail sorters, telecommunication engineers, bank and post office clerks, security guards and cleaners. The CWU

represents almost two hundred thousand people across these occupations and understands the impact that the pandemic has had on its members, their workplaces and their industries.

57. The lack of adequate Personal Protective Equipment (PPE), particularly during the early days of the pandemic, also exposed the unsafe conditions in workplaces. The CWU received numerous accounts from Royal Mail staff in 2020 that sourcing PPE was next to impossible, and that newly introduced safety regulations, such as social distancing, were in some instances non-existent. At Royal Mail sites in Barnsley and Wellingborough, reported outbreaks ended with several workers contracting Covid-19 and leaving at least two workers in hospital. These conditions meant that many of our members walked out due to feeling unsafe at work and some took unpaid leave for fear of infecting themselves or their family members.

58. Another example of inadequate provision for communications workers was the failure to issue clear advice to workplaces in the lead-up to the first national lockdown. This created confusion around safety measures that led to high levels of transmission in indoor spaces- which many postal workers, engineers, cleaners and security guards had to occupy during work. Where the government failed to take action or instruct employers correctly, the CWU and its members worked to ensure their workplaces were as safe as possible, including issuing statements to make clear the rights of members not to work in unsafe conditions and working hard to secure PPE for members.

### **Section 1: the second bullet point (health and care sector)**

59. This part of the ToR is broadly welcomed. It is suggested that:

- (a) The bullet point explicitly refers to the “government” as well as the “health and care sector”;
- (b) It includes the deployment of vaccines as a condition of employment;
- (c) The sub-bullet point refers specifically to testing equipment.

60. It is suspected that all of those matters could be said to fall within the ToR already. They are each manifestly important. In the interests of clarity, it is suggested that each should be included by way of specific reference, particularly as the draft ToR delve into detail in other respects, but presently omit these items. The proposed edits are small but important.
61. For clarity, the management of the pandemic in hospitals and care homes must include an examination of the quality and levels of PPE required.

### **Section 1: a proposed new bullet point ('deep dive') on education**

62. It is vital that the Inquiry includes a close analysis of events during the pandemic in the education sector, across primary, secondary and tertiary education. The proposed addition to the draft ToR is:

- *The response of the government and education sector across the UK for primary, secondary and tertiary education including:*
  - *preparedness and resilience of the education system;*
  - *the restrictions on pupils attending places of education, including an examination of why repeated restrictions became necessary and the consequences of repeated restrictions on attendance upon pupils, and upon parents/guardians who continued to work;*
  - *support for children during the closure of schools, including the provision of resources such as laptops and free school meals;*
  - *infection prevention and control, including measures taken to safeguard both staff and pupils, and the impact of the spread of infection on staff and pupil absence;*
  - *the relationship between school attendance and spread of infection in the community.*
  - *the timing, effectiveness and communication of government guidance to education settings;*
  - *the management of the teaching, learning and award of qualifications in the years 2019/2020 to 2022/2023;*
  - *measures taken to address learning loss and support wider social and emotional recovery for pupils and schools.*

63. The impact of the pandemic upon access to education, and the call upon schools and staff to rise in response to the pandemic, were unprecedented and extraordinary. It falls at the heart of the public's concern and should certainly be a significant focus of the Inquiry. The current draft, which includes an examination only upon "*restrictions on attendances of places of education*", is wholly inadequate.
64. The importance of education is manifest, and the disruption to it was significant. The closing of schools to the majority of pupils had significant adverse impact not only upon education, but also on the social and mental well-being of pupils, particularly the most vulnerable. The re-opening of schools, and the deficiencies in infection control within school, had a significant impact upon community transmission.
65. The call upon education institutions and their staff was extraordinary. Schools and colleges did not close in order that key workers with school age children were able to continue to attend work. Teachers had little or no respite throughout the pandemic, and were often required to work in crowded and poorly ventilated workplaces where social distancing is challenging and, in some contexts, virtually impossible.
66. With the restrictions on school attendance, there was an urgent need to support pupils, particularly the most vulnerable. When school children moved predominantly to online learning in April 2020 it became clear that ensuring Free School Meals (FSM) needed to be a priority. Initially, many schools were trying to provide FSM directly, as there was no plan in place. EdenRed was asked to resolve the issue via the provision of food vouchers to be redeemed at supermarkets, but there were severe delays. The system was labour intensive for schools and ultimately ineffective, causing untold distress, anxiety and stigmatisation for vulnerable families. It was only following Marcus Rashford's letter to the prime minister alongside the growing #ENDCHILDFOODPOVERTY campaign that there was a government U-turn which saw FSM provision extended over Easter holidays, May half-term and summer break.
67. There was similar difficulty in the provision of laptops. The scheme to deliver laptops and wireless routers to those who needed it was announced on 19<sup>th</sup> April 2020, but the first laptops were rolled out over the summer term of 2020 – several months after

children began learning from home. Many schools resorted to lending out school laptops or themselves purchasing new laptops for pupils in need. This difficulty reflects a broader 'digital divide' which was a problem long before the pandemic and requires to be addressed.

68. The safety of pupils and staff was a contentious matter throughout the pandemic. There were repeated failures by government and missed opportunities to improve safety, whether through improved ventilation and the use of CO2 monitors and air filtration devices, additional premises, smaller class sizes, and the prioritisation of vaccination for education staff. 'Bubbles' were, in many cases, too large, with some (particularly meaningless) bubbles being whole year groups in large schools. Mask wearing by students in secondary classrooms was only introduced a whole year into the pandemic (March 2021) and only remained for a period of months, being removed on 17<sup>th</sup> May 2021. That was at a time that the Delta variant was increasing and contrary to the advice of SAGE. On 13<sup>th</sup> May 2021 the education unions wrote<sup>14</sup> jointly to the government urging safety measures (including the use of masks) and drawing attention to ONS statistics indicating that 10% of primary school age children and 13% of secondary school age children had persistent symptoms of Covid-19 even five weeks after initial infection. It was estimated, even at that time, that 43,000 and 114,000 teaching and educational staff were living with long Covid. It was pointed out that all of the Center for Disease Control and Prevention (CDC), World Health Organisation (WHO), and SAGE recommended the use of masks in schools. Unions such as NASUWT, NEU and NAHT were in frequent correspondence with the Westminster government as to the adequacy of safety measures in schools, which was generally intransigent in adopting appropriate precautionary measures in schools. It declined to jointly prepare guidance with workforce representatives (as it did in some other sectors).
69. One significant matter for the Inquiry ought to be the link between school and community transmission of the virus. That link is relevant not only to decisions as to

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<sup>14</sup> [Joint statement draft\\_GW.pdf - Google Drive](#)

the closure and reopening of schools and colleges, but also the safety measures warranted within schools. It was not until January 2021 that the government acknowledged that schools were vectors for transmission. There was continued secrecy as to the numbers of cases within schools, with the DoFE initially refusing to provide data, and thereafter providing data as to outbreaks but not cases.

70. The awarding of qualifications after the first year of the pandemic was, on any view, a fiasco. An algorithm was applied to award grades which applied an essentially arbitrary grading and ensured a certain number of fails. The knowledge of teachers and the experiences of their students' work was disregarded. Understandably, that led to huge levels of anguish, stress and upset for thousands of students. The approach was ultimately reversed and reverted to the grades suggested by teachers, but far too late and only after the distress was caused. The impact upon qualifications continued in respect of students in subsequent years who did not face the same fiasco in the awarding of results, but had had suffered significant gaps in educational provision at a crucial time.
71. One important context for the response of schools is a history of under-funding. During the pandemic, schools have faced increased supply costs; costs of free school meals; increased cleaning costs; increased heating costs; and increased staffing costs in covering staff absences;<sup>15</sup> whilst at the same time experiencing decreased income from letting of facilities<sup>16</sup> and 'wraparound' childcare. Those financial pressures resulted in cutting of staff, increased pupil-teacher ratios and reduced curriculum options. Questions arise as the extent to which the onerous expectations upon schools in responding to the pandemic were adequately funded.
72. What is clear is that the impact of closing schools can be terrible for pupils. Yet the opening of schools in the course of a pandemic poses significant safety risks for pupils and staff alike, and more generally for transmission of the virus in the community. The response to that conundrum in this pandemic was beset with delay and mistakes.

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<sup>15</sup> The NEU estimates additional costs of £290m for the Autumn 2020 term which saw teacher absence of 6.6% compared with an average of 2%.

<sup>16</sup> The NEU estimated losses of £288m in 2020/2021

When a future pandemic hits the conundrum will, almost inevitably, rear its head once again. That cries out for detailed examination and lesson learning as part of this Inquiry. It is a matter of acute public concern.

## Section 1: a proposed new bullet point ('deep dive') on transport

73. The Inquiry should include a close analysis of events during the pandemic in respect of transport. The proposed addition to the draft ToR is:

- *The response of the Department for Transport, local and regional transport authorities and transport sector across the UK, including:*
  - *preparedness;*
  - *infection control and management of workplace safety standards for employed staff and contractors in public and private transport services, including rail, bust, haulage and delivery/logistics;*
  - *infection control and public health management for all users of passenger transport services;*
  - *effectiveness of government guidance and communication on the role of the transport providers and representative bodies;*
  - *effectiveness of the inspection, regulation and enforcement of workplace and transport safety by relevant regulatory bodies.*

74. Many workers in transport played a heroic (and sometimes forgotten) role early in the pandemic in continuing to work and enable NHS and care workers to travel to where they were needed.

75. By 4<sup>th</sup> April 2020 five London bus drivers had already died of the coronavirus. A fifth of the Transport for London workforce was self-isolating.<sup>17</sup> At the same time the death of a bus driver in Bristol<sup>18</sup> prompted a number of safety measures, but only following representations from Unite.

<sup>17</sup> <https://www.citymatters.london/tfl-staff-20-sickness-self-isolation/?msclkid=9c11c3c7b1b811ecbc1fb99312ef3eed>

<sup>18</sup> The driver, Martin Egan, had driven busses for First Group in Bristol for 40 years

76. By November 2020, 30 bus drivers in London had died of Covid-19. Amongst bus drivers, those aged 65 and over, those from BAME backgrounds, and those with pre-existing hyper-tension were found to be at higher risk of mortality.<sup>19</sup>
77. Against a context of foreseeable and significant risk, the safety measures were often lacking. In February 2020 Unite had raised concerns that the air conditioning system used on buses by Transport for London used air from the passenger area of the bus. It was not until November 2020 that the units were changed such that air entering the driver's sealed cab came directly from the outside.
78. In May 2020 the government issued its guidance 'Safer Transport – Guidance for Operators', but the guidance on risk assessments was weak and there remained a lack of clarity on issues such as maximum capacity of passengers allowed on buses and trams, and how rules on capacity and use of face coverings could be enforced.
79. Many drivers have faced not only increased dangers during the course of the pandemic, but also financial pressures, with a number of firms under the guise of the pandemic engaging in 'fire and rehire'<sup>20</sup>
80. The introduction of face masks was slow. Despite frequent calls by unions, face covering did not become mandatory on public transport until 15<sup>th</sup> June 2020, and 10<sup>h</sup> July 2020 in Northern Ireland. Even after masks were required, compliance was inconsistent and the enforcement of the requirement was largely absent.
81. Taxi and private hire workers also faced increased risk. The GMB urged the government to assist such workers the provision of handwashing and sanitiser facilities, basic PPE, and banning payments in cash.<sup>21</sup> The industry also felt huge financial pressures with a significant drop in business, but many self-employed drivers fell between the cracks when it came to financial assistance.

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<sup>19</sup> [Bus union RMT responds to study on workers' deaths - rmt](#)

<sup>20</sup> Such as the Manchester bus company Go North West

<sup>21</sup> [GMB Union calls for cash ban, protective wear and sanitisers for drivers after first Covid-19 deaths reported - Professional Driver Magazine \(prodrivermags.com\)](#)

82. Difficulty arose out of the patchwork of responsible bodies in a de-regulated industry. In May 2020 the Rail Industry Coronavirus Forum (RICF) set out industry-wide guidance, bringing together train operators, Network Rail and unions to agree principles for safe working based on government ‘advisory’ guidance to transport operators. The Office of Rail and Road which is the safety regulator for the Rail industry also produced guidance, in discussion with unions, though RMT was concerned that there was insufficient stress on the need to involve health and safety reps in risk assessing proposed changes to controls and agreeing changes to them. In the bus industry, however, there was no equivalent of the RICF, only correspondence with and occasional meetings with the Confederation of Passenger Transport. Neither was there any equivalent in the shipping industry.
83. A crucial but critically undervalued role was played by cleaners on public transport. However, many cleaning operations, on railway franchises for example, were outsourced during the pandemic, leaving cleaners on low wages and lacking basic rights such as sick pay. Cleaners faced a high risk of contracting the virus, but statutory sick pay when they fell ill.
84. Shockingly, the pandemic also saw a surge in violence against public transport workers as they sought to fulfil a role in enforcing mask-wearing amidst confused and shifting government guidance. 58% of all staff and 67% of those in public facing roles report workplace violence since the pandemic began, with 60% saying it had got worse since the pandemic and massive 82% said that they believed that the lifting of Covid-19 restrictions in July 2021 and mixed messaging created by this had led to an increase in violence. RMT conducted a survey of its members on the TfL services<sup>22</sup> and identified that 76% of public-facing TfL staff including station staff, drivers and cleaners, reported they had been subjected to workplace violence from passengers since the pandemic began. The survey found: 56% of respondents reported being threatened with physical violence, 87% reported verbal abuse, 14% reported being spat at or targeted with bodily fluids.

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<sup>22</sup> See the RMT briefing at [rmt-policy-briefing-tfl-and-violence-at-work-during-covid19.pdf](https://www.rmt.org.uk/media/12345/rmt-policy-briefing-tfl-and-violence-at-work-during-covid19.pdf)

85. As with the suggested ‘deep dives’ into the manufacturing and retail sectors (addressed below), a ‘deep dive’ into the response of the transport sector will be an opportunity to examine and to learn lessons in respect of a constellation of issues including the management of workplace health and safety, including the effectiveness of regulators; the effectiveness of health and safety regulation and guidance; differential impact of the pandemic upon different groups; and financial support for those in low-paid but crucial jobs.

### **Section 1: a proposed new bullet point (‘deep dive’) on manufacturing**

86. The Inquiry should include a close analysis of events during the pandemic in the manufacturing sector, with a particular focus on textiles and food processing. The proposed addition to the draft ToR is:

- *The response of the Department for BEIS, safety regulators and the manufacturing, textiles and food processing sector across the UK including:*
  - *infection control and management of workplace safety standards for employed staff and contractors in manufacturing, including food processing and textiles;*
  - *effectiveness of government guidance and communication and the role of employers and representative bodies;*
  - *pay for workers who were self-isolating;*
  - *contributory factors to infection outbreaks in specific sectors and locations;*
  - *effectiveness of the inspection, regulation and enforcement of workplace safety by relevant regulatory bodies.*

87. Food processing plants continued throughout the pandemic. The workforce faced elevated risks of contracting the virus, and the infection control was very often poor.

88. In March 2020 there was a mass walkout of up to 1,000 workers at Moy Park at Seagoe, Portadown over concerns of a failure to provide basic health and safety protections to the workforce. Unite attempts to secure commitments to ensure a minimum two metre social distancing between workers and other measures to enable infection control in the face of the threat of the virus were dismissed by management. There was a similar walk out at ABP Meats in Lurgan.

89. It was well known that those on food production lines faced significant risk. On 30<sup>th</sup> March 2020 Unite called upon the Secretary of State for Environment, Food and Rural Affairs to make the two-metre social distancing guideline mandatory for food industry workers on production lines. The Northern Ireland Food and Drink Industry did respond with new industry guidance, but as Unite indicated on 31<sup>st</sup> March 2020, *“While some employers are now working with us, there are many who aren’t doing anything meaningful. Indeed, some are issuing public statements saying that they have measures in place to ensure social distancing within their factories but we have evidence that this is simply not the case. Guidance around social distancing, slowing down and simplifying production has not been implemented in many workplaces”* and the HSE are *“refusing to act despite being provided photographic evidence of breaches.”* Unite regional officer, Sean McKeever, explained that *“Food and retail workers are now front line workers in the battle against the Covid-19 virus but are at risk of being sacrificed by our politicians. The Northern Ireland Executive’s shameful failure to bring forward any meaningful enforcement mechanisms whatsoever cannot be allowed to continue. The [HSE] is chronically under resourced and under-staffed to deal with the scale of this challenge – they are no longer conducting inspections of workplaces – leaving workers to fend for themselves.”*
90. By May 2020 a worker at Moy Park, Dongannon had died following contracting the virus. There were outbreaks at both Dungannon and Portadown, and a growing number of clusters of infections at meatpacking sites. Unite advocated for the Stormont Executive to require testing for workers in the poultry and meat packing sector. The high-risk nature of the sector had been widely recognised, but there was nonetheless a failure to roll-out a comprehensive programme of testing for those working in the sector. Moy Park itself refused to provide Covid-19 testing to its workforce.
91. There were outbreaks associated with food manufacturing plants across the UK. For example, concerns arose in relation to the operations of Bakkavor – a sandwich maker for large stores such as M&S employing 23,000 people at 23 factories. Two employees died at a factory near Dover in Kent and around 100 workers tested positive following an outbreak. The GMB called upon the company to offer fully pay to anyone taking

covid-related absence (rather than statutory sick pay), mass testing for staff, and to perform a deep clean at the factory. The company only agreed to ask staff to wear face masks after pressure from the GMB.<sup>23</sup> In April 2020, an operations manager at a factory admitted (in a secret recording) that social distancing was not possible, and threatened to fire anyone who was not ill and stayed at home and *“people who don’t bother to get to work, get out.”* Staff reported being worried about their health at work, but under pressure to come in.

92. in August 2020 there was a call for workers at Banham Poultry factor in Norfolk to receive more than statutory sick pay amidst 75 staff having tested positive. As with many other sectors with a workforce that is often poorly paid, many were limited to statutory sick pay when self-isolating. That had the inevitable consequence that some workers that should have been self-isolating felt compelled given the financial consequences to continue to work. Although the limited statutory sick pay was frequently a problem, the coronavirus job retention scheme did, in fact, allow employers to temporarily furlough workers if they required to self-isolated, but government communication of the scheme was poor, if not deliberately suppressed.
93. Significantly, there was a link between Covid-19 meat processing outbreaks and exploitation of migrant workers. Although conditions within refrigerated meat processing factories were cited as a risk factor for transmission of the virus, it appeared to Unite that there was also a direct correlation between the treatment of migrant staff as ‘disposable assets’ and the spread of disease in such environments. Many of the most dangerous working conditions were preserved for migrant workers. Poor employment standards are often associated with overcrowded housing of workers, which was a further contributing factor to outbreaks within factories. For example, Unite found that 43 percent of respondents to a survey of workers in a meat processing plant, staffed overwhelmingly with migrant workers, lived with two or more colleagues, and 11 percent lived with five or more. Strikingly, nearly 65 percent of 150 respondents said they had attended work whilst unwell, with 69 percent of those

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<sup>23</sup> [GMB Southern Region | Second Bakkavor worker dies amid Covid outbreak at factory supplying Marks and Spencer \(gmb-southern.org.uk\)](https://gmb-southern.org.uk/2020/04/second-bakkavor-worker-dies-amid-covid-outbreak-at-factory-supplying-marks-and-spencer/)

indicating that they did so because they could not afford to lose pay. Just 10 percent had been tested for Covid-19.

94. A similar pattern of problems arose in relation to textile factories. There were reports of clothing factories in Leicester claiming to have closed, but in fact continuing to operate behind closed doors. Workers reported a complete lack of any safety measures.<sup>24</sup> The company, Bohoo, which predominantly relies upon garments produced in Leicester, was compelled to launch an investigation after reports of the company's suppliers being among those paying wages as low as £3.50 per hour and breaching coronavirus safety guidelines, with huge volumes of production without any adequate social distancing. An informative report was produced by Labour Behind the Label<sup>25</sup> which pointed towards the vulnerabilities linked to ethnicity, with a predominantly minority ethnic work force, many of whom are vulnerable to abuse as a result of their immigration status, language skills, integration in the community, higher unemployment rates, and links to modern slavery and trafficking. That was a significant part of the picture in terms of the disproportionate impact of Covid-19 upon BAME groups.

95. Again, the response of the HSE to such concerns was deficient, with the HSE encouraging 'self-policing' of safety measures and without spot inspections

### **Section 1: a proposed new bullet point ('deep dive') on retail**

96. The Inquiry should include a close analysis of events during the pandemic in the retail sector. The proposed addition to the ToR is:

*The response of the government and safety regulators and the retail sector, including:*

*(a) preparedness;*

*(b) infection control and management of workplace safety standards for those working in retail, including on-line retail;*

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<sup>24</sup> See, for example, <https://www.theguardian.com/uk-news/2020/jul/11/leicester-factory-put-lives-at-risk-during-coronavirus-lockdown-claims-garment-worker>

<sup>25</sup> Available at <https://labourbehindthelabel.net/wp-content/uploads/2020/06/LBL-Boohoo-WEB.pdf>

- (c) effectiveness of government guidance and communication and the role of employers and representative bodies;
- (d) action to support retailers and retail workers in enforcing public health measures, for example social distancing and the wearing of face coverings, including action to tackle abuse, threats and violence towards retail workers;
- (e) pay for workers who were self-isolating;
- (f) contributory factors to infection outbreaks in specific sectors and locations;
- (g) effectiveness of the inspection, regulation and enforcement of workplace safety by relevant regulatory bodies.

97. The retail sector is a significant part of the UK economy employing around three million people and contributing 11% to the UK economic output. Retail has been an undervalued sector, but early in the pandemic society quickly realised its importance. Retail workers, often poorly paid and in insecure employment, were expected to face significant risks.

98. Much of the impact upon retail workers is set out in the Usdaw<sup>26</sup> report, *The Impact of Coronavirus on the Workforce*.<sup>27</sup>

99. Essential shops remained opened throughout the pandemic, and certainly early on in the pandemic workers benefitted from little by way of safety measures. There was limited guidance as to infection control, and it was generally left to unions to identify and to advocate for safety measures. Companies such as The Range faced numerous concerns raised by retail staff and were intransigent in response to attempts by Usdaw to address them.<sup>28</sup> Guidance around the use of face coverings was slow to be produced and then repeatedly changed. That created confusion and limited the effectiveness of the guidance. In a sector with high levels of insecure employment, many vulnerable workers were compelled to attend the workplace whilst at significant risk to themselves.

<sup>26</sup> The Union of Shop, Distributive and Allied Workers

<sup>27</sup> Available at: <https://www.usdaw.org.uk/CMSPages/GetFile.aspx?guid=575d4419-a739-432b-ab54-10e84ad56e26>

<sup>28</sup> See [USDAW - The Range staff continue to complain about safety, as the company still refuses to respond to Usdaw](#)

100. Significantly, online shopping for non—essential items was permitted to continue. Demand for such items, via online shopping, saw a huge surge in demand. Whilst much of society only experienced items arriving at their door, often easing the huge demands of lockdown, many low paid workers bore the brunt of the huge demand in warehouses delivering on-line shopping. Those workplaces were ‘out of sight and out of mind’. There were numerous reports of unsafe practices. For example, a Bohoo warehouse was reportedly described by staff as a breeding ground for the virus with no social distancing or PPE,<sup>29</sup> and similar reports were made about a JD Sports warehouse.<sup>30</sup>
101. In terms of the effectiveness of inspection, regulation and enforcement, retail workplaces are covered by local authorities through their environmental health officers (EHOs). Usdaw has repeatedly found throughout the pandemic that these services are not only underfunded but also that there is no requirement for EHOs to consult with trade union health and safety reps. The pandemic has clearly demonstrated that there is a need for Governmental checks and balances to ensure that the retail sector works effectively whilst protecting staff and the public. The lack of EHO’s as a result of austerity cuts, as well as the fundamental flaw in their remit, has led to additional issues within the sector and greater risks workers in retail and the public.
102. Shockingly, whilst retail workers made huge sacrifices in supporting the country through the pandemic, the levels of abuse faced were high. A range of new responsibilities were placed on shopworkers including enforcing social distancing and limiting the number of customers entering stores, and preventing customers exceeding product restrictions. There were also increased demands in re-stocking to cope with surging demand. Those responsibilities proved to be flashpoints for abuse.

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<sup>29</sup> See numerous media reports such as <https://www.thesun.co.uk/news/12100973/boohoo-warehouse-breeding-ground-coronavirus/>

<sup>30</sup> <https://www.business-humanrights.org/en/latest-news/uk-jd-sports-warehouse-workers-concerned-over-covid-19-infection-risks-union-says-warehouse-should-close/>

Of 5,000 responding to an Usdaw survey, over 3,000 had been abused and 196 physically assaulted.

103. Retail workers also faced financial pressures. Around 1.6 million retail workers were furloughed at the end of May 2020 – more than any other sector. Pre-existing challenges in the retail sector became more intense during the pandemic, and more than 180,000 jobs were lost in retail during 2020. Further, the higher risk of contracting the virus led to concern not only for their health, but also of the financial impact given that many retail workers are limited to Statutory Sick Pay of £95.85 per week. A further financial impact was that, at least in principle, pregnant women were deemed to be vulnerable and, where not able to work from home, had the right to be suspended on full pay until a suitable alternative role was found, or for as long as necessary to avoid the increased risk of infection.<sup>31</sup> However, Government advice was lacking such that employers were often unaware of that right. In the meantime, many pregnant women were wrongly put on statutory sick pay when sent home from work.
104. Due to the availability of part-time and flexible working hours across retail, the sector attracts a high proportion of workers who are parents and carers. For many, the challenge of continuing to work whilst schools were closed, or where they did not wish to send their children to school due to the risk posed by the virus, was significant. Over 1 in 10 responding to the Usdaw survey reported leaving their child(ren) at home alone whilst working.
105. Unsurprisingly, the impact upon the mental health of retail workers was significant. A survey conducted by Usdaw<sup>32</sup> reported almost three-quarters feeling anxious about going to work, with by far the biggest factor being contracting the virus. Nearly half said they felt unsafe or very unsafe at work, and eight out of ten said the pandemic had negatively affected their mental health.

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<sup>31</sup> In line with the Management of Health and Safety at Work Regulations

<sup>32</sup> <https://www.usdaw.org.uk/CovidMHSurveyResults>

## Section 1: the third bullet point in the draft ToR (economic response)

106. The TUC considers that this part of the ToR should include an explicit reference to “sector specific support”, to ensure that consideration is given to the support provided to sectors across the UK economy.

107. The public health measures taken in response to the pandemic had a dramatic impact on the economy, as demonstrated by the 20.4 per cent decline in GDP in April 2020. This economic impact was not, however, evenly distributed across sectors and different areas of the economy have been affected very differently by the crisis.

108. The table below sets out those industries where total output declined by more than half between February and April:

Industry	Percentage change in output, February-April 2020
Air transport	-96
Travel agencies and tour operators	-95
Accommodation	-93
Food and beverage service activities	-91
Rail transport	-77
Other personal service activities	-70
Transport equipment	-60
Textiles, wearing apparel and leather products	-59
Sports and recreation activities	-57
Creative arts and entertainment activities	-54
Other service activities	-52
Motion pictures, TV production, sound and music activities	-51

Source: ONS, *Indices of Production and Services*

109. In this submission, we have already highlighted concerns around the specific support provided to the aviation industry by the UK government, particularly in comparison to European competitors. In its June 2020 report *Rebuilding after recession – a plan for jobs*, the TUC noted that: “even as the economy starts slowly to reopen, the

disparity between sectors in the extent to which they can start to return to something like normal, or can restart operations by putting in place adaptations, or still cannot open at all, remains huge. Looking ahead years, rather than months, this is still likely to be the case, with some sectors permanently changed by this crisis while others will – eventually at least – have bounced back. This means there are significant differences in the kind of economic support packages that different sectors and businesses will need going forwards.”

110. As such, the TUC called for the government to establish sector recovery panels that bring together representatives of both workers and employers and other relevant sectoral bodies to set out sectoral route maps that will create a baseline of analysis on which government can base its ongoing assessment of the resources and measures needed to support the economy in the different phases ahead.

111. The government’s failure to act on this has led to an uneven return to growth and productivity with implications for jobs and businesses across sectors, with industries such as manufacturing, arts, entertainment and recreation, electricity and gas and accommodation and food services still well below pre-pandemic levels despite overall GDP up by 0.8%.

## **Section 2: the lessons to be learnt**

112. The TUC is broadly content with this part of the draft ToR, subject to two matters.

113. First, the draft limits the lesson learning to preparations for future pandemics. That, of course, should be the focus of any lesson learning. However, it is perfectly possible that in the course of its investigations, the Inquiry comes upon the opportunity to learn lessons which goes beyond the (relatively) narrow confines of preparedness for future pandemics. It would be absurd to arbitrarily confine the opportunity for the learnings of lessons.

114. Second, it is right that the Inquiry considers the experiences of “*key workers*” during the pandemic, but it is not clear what is intended to fall within that definition. The TUC considers that it should include all workers who “*continued to provide a service to*

*the public throughout*” the pandemic, as well as the trade unions who represented those works on an urgent basis during the course of the crisis.

## **QUESTION 2: WHICH ISSUES OR TOPICS DO YOU THINK THE INQUIRY SHOULD LOOK AT FIRST?**

115. The structure of the Inquiry will be vitally important. In many other inquiries there are examples of difficulties with structural, sequencing decisions taken at an early stage, and the TUC’s view is that this is an issue of critical importance to the effectiveness of the Inquiry.
116. However, it appears premature to seek to identify an order of topics at this stage, and the TUC submits that it is not appropriate to do so now. There are too many variables, and too many unknowns.
117. Instead, the TUC submits that the order should be determined by the Chair, following the finalisation of the ToR by the Prime Minister in accordance with section 5.
118. It may be influenced by factors such as (a) which areas may warrant urgent ‘lesson learning’, (b) whether historical issues of preparedness need to be considered first to set the context, and (c), practically and with the importance of promptitude in mind, which areas or topics may be capable of being the subject of hearings first.
119. The TUC considers that, following the establishing of the finalised ToR, it would be sensible for the format and progress of the Inquiry to be considered in public hearings, in line with the commitment to transparency which we have welcomed to date. A preliminary hearing to consider these issues later in 2022 would seem sensible, at which the Chair could consider and determine these issues following consideration of submissions from Counsel to the Inquiry (“CTI”) and Core Participants (“CPs”).
120. In respect of CPs, the TUC submits that consideration should be given to inviting applications for generic CP status at an early stage, from individuals or organisations who fall within the definition in Rule 5, Inquiries Rules 2006 in relation to the overall

ToR. This could include, for example, the governments of the UK and the devolved nations; a collective organisation such as the TUC; and large representative groups such as Covid-19 Bereaved Families for Justice.

121. Were the Inquiry to adopt a modular approach, it would, in addition, be possible to identify at a later stage specific CPs in respect of particular modules – for example, some individuals or entities may fall within the definition in Rule 5 only in respect of one specific aspect of the Inquiry. However, in our submission generic CPs are vital if the Inquiry is to avoid difficulties which have arisen in other public inquiries which proceeded in modular form, and in which key, underpinning issues, of central importance to the ToR, were decided by the Chair/ Panel and their legal team without input from CPs, who were instead restricted to addressing only specific modules and issues arising therein. This is a model to be avoided, in the TUC’s submission.

**QUESTION 3: DO YOU THINK THE INQUIRY SHOULD SET A PLANNED END-DATE FOR ITS PUBLIC HEARINGS, SO AS TO HELP ENSURE TIMELY FINDINGS AND RECOMMENDATIONS?**

122. In short, no. This may sound superficially sensible and attractive, but ultimately consider that setting an arbitrary end-date is misconceived.
123. Should this question arise in part from a perception about the Saville Inquiry (which lasted 12 years and cost £195m) or other concerns about bloated and overly long inquiries, the concern is, with respect, misplaced.
124. First, as a matter of principle, of course the Inquiry should be timely, but the length should ultimately accord with what is necessary for an effective inquiry, rather than an arbitrary end date.
125. Second, Baroness Hallett has a strong record of conducting complex inquests and inquiries in a timely and proportionate manner. For example, the 7/7 inquests – involving the deaths of 52 victims of the London Bombings, across four bomb sites, and with substantial evidence concerning a wide range of issues over the preceding two decades – were conducted effectively and efficiently, with evidence being heard

over a five month period and detailed findings and recommendations published within six months of the evidence commencing.

126. Third, the question refers to an end date *“help[ing to] ensure timely findings and recommendations.”* If this is the reason for a proposed end date, (a) interim reports and interim recommendations are a preferable mechanism, not an overall fixed end date, and (b) in any event, quick lessons which overlook key matters will not reassure the public or allow the Inquiry to achieve its core aims.

127. Fourth, given the long timeline between the announcement of the inquiry, the appointment of the Chair and the publication of the ToR, an end date being set by the Prime Minister could give an unfortunate impression that there is political interference and a wish to truncate the process and limit the extent to which it can provide a thorough examination of the government response to the pandemic..

**QUESTION 4: HOW SHOULD THE INQUIRY BE DESIGNED AND RUN TO ENSURE THAT BEREAVED PEOPLE OR THOSE WHO HAVE SUFFERED HARM OR HARDSHIP AS A RESULT OF THE PANDEMIC HAVE THEIR VOICES HEARD?**

128. The TUC recognises that this is a complex and difficult question, particularly given that, on one view, every single person in the UK could be said to be a CP. First, the TUC proposes a proportionate and sensible approach to CPs, with both generic CP status and specific CP status, as outlined above. Applications for generic CP status should be invited as soon as possible following the finalisation of the ToR, to ensure that there is meaningful input at an early stage when the Inquiry is being designed and getting underway.

129. In relation to bereaved people and those who have suffered harm or hardship, the TUC has concerns that the reference to “listening” in the draft ToR could indicate an intention to have a form of testimony-gathering process as an alternative to CP status (such as the Truth Project, for example, in IICSA). In our submission, the key is meaningful engagement with the Inquiry. The TUC does not oppose a 'listening

project' in which those who have suffered have opportunity to share their experiences. The key questions, however, are (a) how those experiences feed into the Inquiry, and (b) whether those most profoundly affected have an opportunity to influence the Inquiry's course rather than simply be heard. We consider that the Inquiry must ensure that those voices must be heard in the Inquiry, and be able to participate in and influence the Inquiry, including by ensuring that the Inquiry awards CP status to individuals and bodies who will be able to give voice to those who have suffered.

7<sup>th</sup> April 2022

## THE UK COVID-19 INQUIRY

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### ANNEX 1: THE TUC UNIONS

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Accord – Lloyds Banking Group, TSB and other financial services

Advance – Santander and Santander businesses in the UK

Aegis – Finance sector staff at Aegon UK, Atos UK, Skipton Building Society, Yorkshire Building Society

AEP – Educational psychologists and assistant educational psychologists in public and private sector

AFA-CWA – Mobile civil aviation workers (flight attendants/cabin crew)

Artists' Union England – Freelance visual artists, applied arts, sound and performance

ASLEF – Railways – drivers, operational supervisors and staff

BALPA – Airline pilots; commercial helicopter pilots and technical rear crew

BDA – Dieticians in the public and private sector

BFAWU – Workers in food industries

BOSTU – Orthoptists

Community – General union covering a range of sectors including steel and other metals, third sector and logistics

CSP – Chartered physiotherapists, physiotherapy students and support workers

CWU – BT, O2, Post Office, Royal Mail Group and other telecoms companies

EIS – Teachers, lecturers, associated educational personnel in Scotland

Equity – Professional performers and creative practitioners

FBU – Fire and rescue services

FDA – Senior staff in civil service, public bodies and NHS

GMB – General union covering a range of sectors, including social care, manufacturing, energy and public services

HCSA – Hospital consultants, staff and associate specialist doctors and registrars

MU – Musicians including live and recording artists, composers, teachers and writers

NAHT – Head teachers, deputies, assistant head teachers and school leaders across sectors

NAPO – Probation and family court staff

NARS – Racing staff employed by licensed racehorse trainers

NASUWT – Teachers and head teachers in all sectors from early years to FE across the UK

Nautilus International – Merchant navy and all related areas

NEU – Teachers, headteachers, lecturers and support staff in all education sectors

NGSU – All staff at the Nationwide Building Society

NHBSCA – All staff at the National House Building Council

NSEAD – Art, craft and design educators across all phases and sectors

NUJ – Journalists, copywriters, designers, presenters, producers and website content providers

NUM – Coal mining and associated undertakings

PCS – Government departments and agencies, public bodies, private sector IT and other services

PFA – Professional football

POA – Staff in penal or secure establishments or special hospitals

Prospect – General union covering a range of sectors, including creative industries, defence, scientific and professional staff and energy

RCM – Practising midwives and maternity support workers in the UK

RCP – NHS, independent practice and private chiropodists and podiatrists

RMT – Railways, underground, metro, bus, road transport, taxi, maritime and offshore

SoR – Radiographers and related staff in NHS

TSSA – Administrative, clerical, professional and technical employees of railways, buses, London Underground, travel trade



UCAC – Teachers, headteachers, education advisors and lecturers across all sectors in Wales

UCU – Academic and related staff in HE, FE, land-based, adult and prison education.

UNISON – General union covering a range of sectors, including local government, health and social care, utilities, energy, education and voluntary sector

UNITE – General union covering a range of sectors, including manufacturing, aerospace, aviation, transport, voluntary and public services

URTU – Drivers, ancillary and warehousing workers in the logistics and food sectors

USDAW – Call centres, catering, distribution, food processing and manufacturing, retail and warehouses

WGGB – Writers working in TV, radio, film, books, theatre, comedy, video games and multimedia

## THE UK COVID-19 INQUIRY

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### ANNEX 2: THE TERMS OF REFERENCE

#### WITH AMENDMENTS **[IN RED]** SUGGESTED BY TUC

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The inquiry will examine, consider and report on preparations, ~~and~~ the response to, ~~and ongoing impact of the pandemic in England, Wales, Scotland and Northern Ireland, up to and including the inquiry's formal setting-up date.~~ In doing so, it will consider reserved and devolved matters across the United Kingdom, as necessary, but will seek to minimise duplication of investigation, evidence gathering and reporting with any other public inquiry established by the devolved administrations.

The aims of the inquiry are to:

**1. Examine the COVID-19 response and the impact of the pandemic in England, Wales, Scotland and Northern Ireland, and ~~produce a factual narrative account report upon this. This should include~~ including:**

- In relation to central, devolved and local public health decision-making and its consequences:
  - preparedness and resilience;
  - how decisions were made, communicated and implemented;
  - intergovernmental decision-making;
  - the availability and use of data and evidence;
  - legislative and regulatory control;
  - the effectiveness of the safety authorities, such as the Health and Safety Executive and Office of Rail and Road, and local authorities, in monitoring and enforcing the management of workplace health and safety standards during the pandemic;
  - the use and adequacy of guidance given by central and devolved governments to employers, including the extent to which governments consulted with appropriate bodies such as trade unions;
  - the capacity and use of manufacturing within the UK for the production of key equipment;
  - shielding and the protection of the clinically vulnerable;
  - the use of lockdowns and other 'non-pharmaceutical' interventions such as social distancing and the use of face coverings;
  - the use and effectiveness of testing and contact tracing, and isolation;
  - ~~restrictions on attendance at places of education;~~
  - the closure and reopening of the hospitality, retail, sport and leisure sectors, creative industries and cultural institutions;
  - housing and homelessness;
  - prisons and other places of detention;

- the justice system;
  - immigration and asylum;
  - retail industry, including on-line retail;
  - key central government departments and services, such as DWP and HMRC;
  - local government services such as environment and refuse and social services,
  - construction industry;
  - aviation industry;
  - communications industry;
  - travel and borders; and
  - the safeguarding of public funds and management of financial risk.
- The response of the government and health and care sector across the UK, including:
    - preparedness, initial capacity and the ability to increase capacity, and resilience;
    - the management of the pandemic in hospitals, including infection prevention and control, triage, critical care capacity, the discharge of patients, the use of 'Do not attempt cardiopulmonary resuscitation' (DNACPR) decisions, the approach to palliative care, workforce testing, changes to inspections, and the impact on staff and staffing levels;
    - the management of the pandemic in care homes and other care settings, including infection prevention and control, the transfer of residents to or from homes, deployment of vaccines as a mandatory requirement, treatment and care of residents, restrictions on visiting, and changes to inspections;
    - the procurement and distribution of key equipment and supplies, including PPE, testing and ventilators;
    - the development and delivery of therapeutics and vaccines;
    - the consequences of the pandemic on provision for non-COVID related conditions and needs; and
    - provision for those experiencing long-COVID
  - The response of the government and education sector across the UK for primary, secondary and tertiary education including:
    - Preparedness and resilience of the education system;
    - the restrictions on pupils attending places of education, including an examination of why repeated restrictions became necessary and the consequences of repeated restrictions on attendance upon pupils, and upon parents/guardians who continued to work;
    - support for children during the closure of schools, including the provision of resources such as laptops and free school meals;
    - infection prevention and control, including measures taken to safeguard both staff and pupils, and the impact of the spread of infection on staff and pupil absence;
    - the relationship between school attendance and spread of infection in the community.
    - the timing, effectiveness and communication of government guidance to education settings;

- the management of the teaching, learning and award of qualifications in the years 2019/2020 to 2022/2023;
  - measures taken to address learning loss and support wider social and emotional recovery for pupils and schools.
- The response of the government, local and regional transport authorities and transport sector across the UK, including:
  - preparedness;
  - infection control and management of workplace safety standards for employed staff and contractors in public and private transport services, including rail, bus, haulage and delivery/logistics;
  - infection control and public health management for all users of passenger transport services;
  - effectiveness of government guidance and communication on the role of the transport providers and representative bodies;
  - effectiveness of the inspection, regulation and enforcement of workplace and transport safety by relevant regulatory bodies.
- The response of the government, safety regulators and the manufacturing, textiles and food processing sector across the UK including:
  - infection control and management of workplace safety standards for employed staff and contractors in manufacturing, including food processing and textiles;
  - effectiveness of government guidance and communication and the role of employers and representative bodies;
  - pay for workers who were self-isolating;
  - contributory factors to infection outbreaks in specific sectors and locations;
  - effectiveness of the inspection, regulation and enforcement of workplace safety by relevant regulatory bodies .
- The response of the government and safety regulators and the retail sector, including:
  - preparedness;
  - infection control and management of workplace safety standards for those working in retail, including on-line retail;
  - effectiveness of government guidance and communication and the role of employers and representative bodies;
  - action to support retailers and retail workers in enforcing public health measures, for example social distancing and the wearing of face coverings, including action to tackle abuse, threats and violence towards retail workers;
  - pay for workers who were self-isolating;
  - contributory factors to infection outbreaks in specific sectors and locations;
  - effectiveness of the inspection, regulation and enforcement of workplace safety by relevant regulatory bodies.

- The economic response to the pandemic and its impact, including government interventions by way of:
  - support for businesses and jobs, including **sector specific support**, the Coronavirus Job Retention Scheme, the Self-Employment Income Support Scheme, loans schemes, business rates relief and grants;
  - additional funding for relevant public services; and
  - benefits and sick pay, and support for vulnerable people.

**2. Identify the lessons to be learned from the above, **thereby including** to inform the UK's preparations for future pandemics.**

In meeting these aims, the inquiry will:

- **consider** the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic, **and ensure that they can meaningfully participate in the process.** Although the inquiry will not investigate individual cases of harm or death in detail, listening to these accounts will inform its understanding of the impact of the pandemic and the response, and of the lessons to be learned;
- highlight where lessons identified from preparedness and the response to the pandemic may be applicable to other civil emergencies;
- **highlight where lessons may be identified other than in relation to future pandemics and other civil emergencies;**
- consider the experiences of and impact on health and care sector workers, and other **key** workers **who continued to work provide a service to the public (whether directly or indirectly); throughout ~~during~~ the pandemic, including through trade unions representing those workers;**
- consider any disparities evident in the impact of the pandemic and the state's response, including those relating to protected characteristics under the Equality Act 2010 and equality categories under the Northern Ireland Act 1998, as applicable;
- **consider the reasons for and impact of differences in approach between the administrations in England, Wales, Scotland and Northern Ireland;**
- have reasonable regard to relevant international comparisons; and
- produce its reports (including interim reports) and any recommendations in a timely manner.