Witness Name: Rozanne Foyer
Statement No.: 2
Exhibits: RF2/01 to RF2/26
Dated: 29th January 2025

UK COVID-INQUIRY

WITNESS STATEMENT OF ROZANNE FOYER, STUC

I, Rozanne Foyer, will say as follows: -

1. I am Rozanne Foyer, General Secretary of the Scottish Trades Union Congress (STUC), my office address is STUC, 8 Landressy Street, Glasgow.

2. I make this statement on behalf of the STUC in response to a letter dated 19 July 2024 sent on behalf of the Chair of the UK Covid-19 Public Inquiry (the "Inquiry"), pursuant to Rule 9 of the Inquiry Rules 2006

3. This statement is made for the purposes of Module 6 of the Inquiry which is examining the impact on the Care Sector across the UK during the pandemic.

Background Matters

4. The STUC is an independent Trade Union Centre to which independent trade unions affiliate their Scottish membership. The STUC is the national lobbying, campaigning, and coordinating body for trade unions in Scotland and represents over 545,000 trade union members via their affiliated trade unions.

5. Workers across Scotland faced huge challenges both personally and in their working lives as the pandemic escalated and unprecedented action was taken to restrict individuals' movements, introduce lockdowns and close large parts of the economy. Workers in essential services including social care were called upon to

work in the frontline, often putting themselves and their immediate families at risk. This resulted in instances of the tragic deaths of social care workers, and we ask that these workers and their families are not forgotten throughout this inquiry, and we pay tribute to their sacrifice.

The Structure and role of the STUC

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

7. The STUC is the national lobbying, campaigning, and coordinating body for trade unions in Scotland. The constituted purpose of the STUC is to co-ordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland reflecting the aspirations of trade unionists as workers and citizens. This is supplemented by the STUC's Vision and Mission:

   a) to build a strong, influential and globally aware trade union movement that champions equalities & delivers a fundamental shift in wealth, wellbeing and power towards workers, our families and communities in Scotland & beyond;
   b) to support our affiliates to educate, agitate, organise and build a movement for change in our workplaces and communities.

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

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

10. The STUC was established in 1897 and is a key civic organisation in Scotland. Successive Scottish Government's since devolution in 1999 have actively engaged with the STUC, albeit taking a variety of approaches. The current Scottish Government has a stated aim for Scotland to become a leading Fair Work nation by 2025 [RF2/01 – INQ000215610]. This framework identifies the value placed on trade unions as the effective voice of workers in Scotland and provided the backdrop to initial joint responses to the pandemic by Scottish Government and the STUC.

11. The STUC co-ordinates unions in relation to their engagement with Scottish Government including relevant Cabinet Secretaries, Ministers and officials. Any engagement with employers, local authorities or related organisations or agencies would be taken forward by unions directly.

12. The STUC represents those in social care through those affiliated trade unions with members in that sector, which is primarily [Unison, GMB and Unite] I. Our full list of affiliated trade unions in the health and social care sector is exhibited later in this statement.

13. The STUC is unable to provide the number of members working in social care within individual affiliated unions as we do not hold this information.

14. The STUC has Committees for specific protected characteristics (Black Workers' Committee, Disabled Workers' Committee, LGBT+ Workers' Committee, Women's Committee and Youth Committee). The STUC does not hold information on what sub-groups / committees its affiliated unions have. Although all unions operate equality structures to represent their members.

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

15. The STUC was uniquely placed to gather information, identify concerns and offer advice due to our representative structures covering every part of the private,

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

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

17. We also established the COVID Group with the Scottish Government, and this allowed the STUC to meet with Scottish Government Cabinet Secretaries, Ministers and civil servants from the onset of the pandemic. The first meeting was with Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture on 16 March 2020. Regular meetings were then convened with the Cabinet Secretary, later with Ministers, and representatives from of our membership including unions representing health and social care workers. These meetings became known as 'COVID Group meetings' and, when relevant, included Scottish Government Health and Social Care Directorate and Public Health Scotland. The STUC raised concerns and made representations to Scottish Government on a wide range of issues during the pandemic, those related to health and social care are included in this statement along with examples from meetings of representations made [RF2/02 – INQ000376401].

18. In addition, our members were involved in industrial sector meetings including Workforce Leadership Group which consisted of NHS employers, trade unions, professional organisations and relevant Scottish Government departments related to health and social care. Note, STUC was not directly represented on this group.

19. These continued throughout the pandemic. Initially they were held twice weekly, before moving to weekly and then monthly, and the last meeting was held on 22 March 2022.

20. We received a letter from Fiona Hyslop, Cabinet Secretary for Economy, Fair Work and Culture on 5 March 2020 informing us of the publication of a four nations action, asking us to share it with our members and inviting my predecessor, Grahame smith to a meeting to consider the steps the Scottish Government could take to help workers. [RF2/02a INQ000107220]

21. We met with Fiona Hyslop, as previously requested, on 16 March 2020. We shared concerning reports from members of their experiences to date including failures and inconsistencies in the provision of vital PPE to a range of staff including ambulance drivers and care workers, a possible consequence of supply chain inadequacies.

22. In addition to these initial meetings, we were working with Scottish Government officials to draft a statement on Fair Work. This was discussed at a meeting with Fiona Hyslop on 24 March 2020 where we agreed to promote the statement with a joint press release. The resulting Coronavirus (COVID-19) Fair Work statement was issued on 25 March 2020 and gave a number of assurances on supporting workers to follow public health advice and on sick pay.

23. The meeting with Fiona Hyslop on 24 March 2020 was attended by ten members of STUC General Council along with two STUC staff members. We agreed to hold these meetings twice weekly with communication in between with Scottish Government officials to progress concerns raised and feedback on issues. These meetings became the Covid Group meetings attended by a range of representatives from our larger affiliates. Cabinet Secretary, Fiona Hyslop, attended the meetings until May 2020 when STUC and Scottish Government regular meetings were handed over to Jamie Hepburn, Minister for Business, Fair Work and Skills.

24. The Covid Group meetings continued throughout the pandemic moving to weekly, then monthly, with the last meeting held on 29 March 2022. The group was expanded in October 2020 to include the elected Chairs of STUC Equalities Committees. These members represented our Black, Disabled, LGBT+, Women and Youth membership sections.

25. As noted above, concerns about lack of sick pay and the requirement to self-isolate was a significant issue that we raised with the Scottish Government throughout the early stages of the pandemic. The issue impacted various groups of workers but was of particular concern in social care, hospitality, and retail where workers were likely to be on lower wages and had higher exposure to risk.

26. At a meeting with Jeanne Freeman, Cabinet Secretary for Health and Sport and Jason Leitch, Scottish Government National Clinical Director on 13th May 2020 we raised the issue of sick pay, in particular providing feedback from social care where the note of the meeting states:

> "*in terms of care homes, whole home testing and that the levels of positive tests for those showing no symptoms is coming back high. ….. also advised that they are picking up from the workforce, that workers are afraid of being tested in case they test positive and therefore end up in isolation at home on SSP. ….. further brought up the testing of agency staff and wished to hear the Scottish Government's views whether staff moving from home to home should be tested.*"

27. The Cabinet Secretary noted that care workers are on low wages and agreed to further consider the issue. On 24 May 2020, she announced funding for social care workers to receive enhanced sick pay when they are self-isolating following a positive Covid-19 test. The resulting Social Care Support Fund has been extended on several occasions and is in place until 31 March 2023. In addition to targeted support for social care workers, the Self-Isolation Support Grant was introduced by the Scottish Government on 13 October 2020. The £500 grant supported low paid workers who were asked to self-isolate by Test and Protect and faced financial hardship. [RF2/03 - INQ000107206]

28. The STUC represents members in health and social care through our affiliated trade unions as outlined in the attached index of health and social care union [RF2/04– INQ000376414]. The STUC co-ordinates health and social care unions in relation to their engagement with Scottish Government including relevant Cabinet Secretaries, Ministers and officials. Any engagement with NHS Scotland, health boards or other related agencies and organisations would be taken forward by

unions directly. Health and social care unions worked with the Scottish Terms and Conditions Committee (STAC) to engage with employers on staffing matters during the pandemic. [RF2/05 – INQ000389243] STAC is a partnership organisation which negotiates terms and conditions for NHS Scotland staff. The group has NHS employer and trade union representation, the STUC is not involved in this industrial bargaining partnership.

29. Ministers and officials welcomed this approach and we believe it provided them with factual and experiential evidence to inform their decisions. This included a variety of matters, for example, workplace health and safety concerns; financial impact on those we represent; non-workplace public health concerns, such as key workers travelling to work; the experience of union members working in compliance, for example health and safety officers; lack of financial support for certain individuals, for example taxi drivers; the difficulties and issues faced by care workers; and also the raising issues of persistent non-compliance by employers where escalation to Scottish Government became necessary. We have noted examples of issues that relate to the scope of Module 6 that were escalated from unions to the STUC to raise. Other examples and issues relating to health and social care workers were raised by their trade unions individually through their own collective bargaining structures within NHS Scotland and local government, which the STUC was not directly represented on. Please see above paragraph (28) for further information on the scope of these structures,

30. This provided the Scottish Government Cabinet Secretaries, Ministers and officials with an insight into workers' experiences and challenges, especially those of key workers in the early stages of the pandemic who were putting themselves at risk to carry out their roles.

31. These concerns were primarily fed to the Scottish Government via the COVID Group meetings, but also through other avenues such as the Safer Workplaces advisory group established by the Scottish Government, on which the STUC was represented. Most of the feedback to Government was verbal, but there are minutes retained for internal use only from the COVID Group. The Scottish

Government would thereafter create a list of actions to be agreed, and a system to track progress.

32. Our role was to highlight the key issues which government and the affected affiliated union would take forward themselves. Given the volume of issues arising, at our request the Scottish Government, we agreed to establish a hotline to allow individual concerns to be raised directly with them to manage the number of matters to be raised and addressed via at the COVID Group meetings. It was agreed at an early stage during the Covid Group meetings between STUC and Scottish Government that the Government should establish a helpline that the STUC could promote to our affiliates across all sectors, to raise concerns or complaints about Covid related issues in the workplace, and guidance not being followed. This hotline covered all sectors including health and social care workers in Scotland. As this was a Scottish Government initiative, we do not have any data on the use of the helpline by different sectors, and would refer you to Scottish Government for more information on its use.

33. In addition to the COVID Group meetings the STUC carried out a significant amount of work on behalf of its members. We met directly with a number of Scottish Government Ministers, Cabinet Secretaries or civil servants as and when required throughout the pandemic, and regularly wrote to and liaised with them to raise issues and concerns, comment on proposals, highlight key challenges for certain types of workers, and to input into and influence guidance and responses to the pandemic. In addition, we consulted on and reviewed draft guidance, collated members' responses to draft guidance. We issued press releases and statements, conducted online surveys, issued reports on those surveys, held regular meetings between Scottish Government and unions from specific sectors, prepared briefing papers, hosted on-line conferences on best practice, offered comment on draft legislation, and raised issues/discrepancies in relation to data collection. Because health and social care guidance was agreed directly with NHS Scotland and COSLA by the affiliates representing those workers through the internal bargaining structures in health and local government, the STUC was not directly involved in commenting on or assisting with the drafting of workplace guidance for adult social care. However, we were consulted on legislation the Government passed in

relation to face coverings, which did impact on settings which would be applicable to adult social care [RF2/06 – INQ000521004] [RF2/06a – INQ000521005]; and the Scottish Government's "Personal Protective Equipment (PPE) for Covid-19 – Scotland's Action Plan" [RF2/07 – INQ000521002] [RF2/07a – INQ000521003].

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

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

Health and Care system in Scotland Pre-Pandemic - Generally

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

37. Scottish Government integrated health and social care in 2016 and while NHS Scotland staffing levels have not suffered similar cuts as local authorities and other public sector agencies, we recognise that the health sector does not stand alone within the public sector. Intense pressure from staffing levels and

fragmented service provision in social care and local authorities directly impact the performance of the health service in Scotland.

Pre-Pandemic Planning

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

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

40. *"1.1 All Health Boards, Local Authorities and Health and Social Care Partnerships should review their pandemic plans, including those for prioritising services in a pandemic. Plans must be scalable for different levels of pressure on services. (See also 1.4) 1.2 The Scottish Government should review national plans to ensure learning from the exercise is incorporated. 1.3 Scottish Government should review internal planning arrangements for influenza pandemics to ensure they are sufficiently robust. 1.4 RRPs should ensure that a comprehensive, multi-agency planning framework is in place to respond to influenza pandemics of varying severities, including overseeing the production of multi-agency pandemic influenza plans, which include Health and Social Care Partnerships. 1.5 In line with existing frameworks, all plans should be subject to regular review and exercising".*

41. The initial response to COVID 19 also failed to consider, and recognise, the potential for aerosol transmission of the virus so that the health measures initially put in place focused on other precautions such as handwashing rather than on the provision of equipment such as masks for the general public and PPE for front line workers. That was the case notwithstanding recommendations that derived from

UK exercises in 2016 and 2018 (in particular Cygnus and Iris) about stockpiling PPE and provision of training in the use thereof.

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

Pre-pandemic capacity of the adult social Care Sector in Scotland

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

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

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

46. The report also detailed the complexities in the mixed market economy of social care, the changed role of local authorities in delivering care and the challenges in commissioning and procurement where both voluntary and private providers reported budget pressures due to procurement processes. These factors led to a

variety of challenges including a "*disconnect between strategic planning, service commissioning and procurement approaches*" and a system that "*creates and relies upon competition has, according to some stakeholders, accelerated a "race to the bottom' as providers compete to win contracts".*

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

48. The fragmented nature of the private care sector impacted on its ability to respond to the pandemic, with the lack of organisational structures and centralised decision-making, making it particularly less able to quickly implement the necessary measures and ensure measures were being adopted and adhered to. We would therefore recommend that the Inquiry investigate and consider the particularly acute difficulties experienced in this sector as compared to the NHS or publicly funded social care, including but not limited to staffing levels, reduced funding, operating on fine margins, poor terms and conditions, lack of PPE, fragmented and inconsistent interpretation and implementation of government mitigation measures, and a relative lack of adequate whistleblowing structures. Many of these issues were highlighted and documented by the Scottish Government's report "Care Home Review – 1 November 2020 [RF2/08 – INQ000001279].

49. The GMB union noted[1] the problems flowing from a lack of union recognition in the social care sector:

> "We found it difficult dealing with the private care sector. That is possibly because of the relationship that we had with those employers prior to the lockdown, which was not good due to the fact that most are resistant to

[1] GMB formal written statement to the Scottish Covid-19 Inquiry by Paul Arkison

having any formal recognition agreements with trade unions which means that there is no formal process to discuss issues."

"As we entered the pandemic, we needed some real assistance and input from these companies, which in my opinion was not there, and these companies needed to be challenged all the way, for example, with regards to concerns over PPE, their own interpretation of guidance, in some cases pressuring staff to attend work despite displaying symptoms. As a result, there was a huge amount of mistrust and anger towards these employers from our members. On 20 March 2020 the GMB wrote to all private care companies where we have members seeking a national strategy to guide the whole care workforce through Covid-19. We believed that by working together our members would be best protected in what was a national emergency."

"Where there are no recognition agreements, there is no avenue or facility to discuss the use of PPE with employers directly. As a consequence of that, members would have to come to us, and then we would have to go to the employers or the Scottish Government to discuss what was actually happening in workplaces."

50. Unison also highlighted[2] the difficulties the structures caused:

"The current arrangements for Health and Safety in Social Care are entirely employer dominated. Some employers are good but even the very best employers are not working with us jointly. As a result, our people are not engaged, and we don't have reps in that sector so there is no joint messaging, no joint plan, no joint communication. There is no vehicle by which people who have concerns can go to a rep and then raise a constructive conversation with the management to get things resolved."

[2] Unison statement to the Scottish Covid-19 Inquiry by Peter Hunter

"Therefore, in contracted services, we are entirely reliant on the quality of the employers' Health and Safety culture which is poorer than it is in Health and Local Government. By its very nature, the Independent and Private Sector, because it is management only, there are some areas where it is really poor and is management dominated. It starts from the point of Health and Safety being weaker than in Health and Local Government, especially when the sector was under pressure, when people did the best that they could do but they did not have the human capital or the resources to raise their game to the standard that was required."

"Also, the Social Care sector were way down the list of priorities in terms of access to resources, so the PPE procurement process and the supply of PPE was under resourced and was slow to deliver. The third sector was behind poorly prepared and poorly supplied with PPE and many staff were saying that they had to buy their own PPE. They were also saying that they had been given PPE that was out of date but had had a sticker put over the use by date. I also heard of somebody saying that they had been given a mask that was supposed to last for 15 minutes but they had to make it last for a 10 hour shift."

"The structure of the market is complex, and some would say that having this mixed economy of different types of provision helps to meet service user choice. But when it comes to having a coordinated intervention and response to an external threat, in this case the virus, then the command and control you have in Health and Local Government plus the history you have of stable joint employment relations is so important."

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

52. Staffing levels, both before and during the pandemic was a serious concern for those working in the sector. The GMB noted:

"Staffing within the care sector generally, and in care homes, was insufficient even prior to the COVID-19 pandemic, but when the pandemic started, people who were scared and concerned were just leaving the sector. Due to the pandemic, companies were also finding it very difficult to recruit new staff, because who would have wanted to go and work in a private care home at that time. There were also many outbreaks, with workers in care homes testing positive for COVID-19. Staffing numbers became even further depleted at a time when workloads increased considerably. The strain on staff, both physically and mentally, was enormous.

"It was clear to us that there were staffing issues at that time, and staff were being worked into the ground. They were struggling to get days off, being refused annual leave, and were possibly being forced to come into work when they shouldn't because they were symptomatic.

"Some staff were also inadequately trained and resourced to deal with care homes that essentially became mini-infectious diseases wards. Patients discharged from hospitals were sicker than the average resident, with greater medical needs compounded by COVID-19 infection. This grave situation was made worse as some doctors in the community refused to visit care homes to treat patients."

Key decisions made by the UK Government and Devolved Administrations

53. The STUC had a key role in reviewing draft guidance produced by the Scottish Government across sectors. We repeatedly asked for clear guidance to ensure workers understood their role and that of their employer in supporting public health legislation. Clear guidance allowed for workers and trade union representatives to challenge employers who failed to uphold their duty to protect their workers. We did not review any guidance relevant to the scope of module 6 this was done directly by the unions in health and social care through their collective bargaining structures. The one area of legislation we were consulted on, which did have an impact in this

area, was "The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020" and the Scottish Government's "Personal Protective Equipment (PPE) for Covid-19 – Scotland's Action Plan" [RF2/07 – INQ000521002].

54. We received draft guidance from Scottish Government officials throughout the pandemic and were asked to review and comment. The volume of guidance being produced across government and the requirement for extremely quick responses, often less than twenty-four hours for complex documents, provided us with challenges around staff time to collate responses and engagement with trade union representatives who were similarly under pressure supporting their members. Responding in very short timescales limited our ability to both respond fully and consult as widely as we would have like with all impacted groups. In the event of another event of this nature it will be vital for key organisations, such as the STUC, to be able to quickly increase its human resource capacity to ensure the best possible feedback. This resource could in future be in the form of secondment to the STUC, or through funding to secure additional resource itself, or a combination of both.

55. Issues also occurred when there was different or contradictory advice issued by the UK and Scottish Governments. We had welcomed the UK Government advice for social care workers published late March 2020 "COVID-19: infection prevention and control (IPC)" [RF2/09 – INQ000308753] and raised concerns with Fiona Hyslop on 7 April 2020 that the recent letter from the Chief Nursing Officer in Scotland to COSLA has undermined that advice. We called for the letter - which contradicted advice on PPE, social distancing, and the capacity for workers to carry out their own risk assessments - to be withdrawn. [RF2/10 - INQ000107232]. We do not know if the letter was withdrawn, but the UK advice was adopted, and this was clarified.

56. We commented on the failure of the Scottish Government to support amendments to the Coronavirus (Scotland) (no2) Act when the legislation was updated on 20 May 2020. Amendments tabled by opposition MSPs would have ensured trade unions greater access to workplaces, payment of the living wage, and established

national collective bargaining in social care, all measures that would support Fair Work and contribute to the sustainability of these sectors. [RF2/10a - INQ000107233]

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

58. However there were also many examples of where we did not feel adequately resourced to keep up with the speed of engagement. When we were given little to no time to respond adequately to complex documents or to ensure representatives with the right level of expertise about a key sector were present for meaningful dialogue, or that the decision had been made elsewhere, prior to consultation, or regardless of our view on the issue.

59. There were many occasions where the STUC raised serious concerns and had heated and robust exchanges with Scottish Government ministers about decisions made that in our view lacked appropriate consultation or were taken despite opposition from our members to them. [RF2/10b – INQ000107213] [RF2/06 – INQ000521004] So in summary the engagement was good, it was better than at UK level, but still had lots of room for improvement.

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

61. There was also a notable lack of engagement with trade unions on a regular basis about how to deal with the pandemic by government at a UK level and in my opinion this very different approach contributed to a very regrettable disparity between policy at UK and at devolved government level.

Infection prevention and control ('IPC') PPE

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

63. We conducted an online survey in the last week of March 2020 and reported that over half of respondents required to work didn't feel safe with 42% saying they did not have access to adequate PPE. [RF2/11 - INQ000107208]. Over 1700 workers participated in the survey, coming from all sectors of the economy. There is an occupational breakdown in the survey data which showed that 11.37% of respondents worked in human health and social work activities. [RF2/12 – INQ000521001]

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

65. Separate groups were set up by the Scottish Government to address issues related to PPE in social care and manufacturing and supply. Public lobbying included an open letter from GMB Scotland to Nicola Sturgeon, First Minister, about the lack of PPE in social care on 4th April 2020 outlined in their Impact Summary for the Scottish Covid-19 Inquiry [RF2/13 – INQ000376410]

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

67. As part of a later STUC research project published in April 2021, "Who is winning from Covid" by Laurie MacFarlane and Christine Berry, the researchers outlined the Scottish manufacturing response to PPE supply and highlighted the lack of evidence around procurement and the enforcement of companies taking a "Fair Work First" approach. [RF2/14 - INQ000107210]

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

69. Unison Scotland and GMB Scotland reported on out-of-date PPE being issued to health and social care staff. This included a GMB Scotland open letter on 4 April 2020 to the then First Minister, Nicola Sturgeon, on behalf of frontline care workers referring to insufficient PPE, as outlined in the impact summary by GMB Scotland for the Scottish Covid-19 Inquiry [RF2/13 – INQ000376410].

70. Suitability and proper fitting of PPE masks was raised by the STUC at Covid Group meetings and by affiliates in various forums with the Scottish Government and employers. Unite Scotland noted that ill-fitting FFP3 masks would cause workers skin to flare up and bruise as outlined in their impact summary for the Scottish Covid-19 Inquiry dated August 2023 [RF2/15 – INQ000376407].

71. There were no informal meetings held with the Scottish Government. Any text messages sent to Scottish Government officials were regarding the arrangement of meetings or to ask for progress updates on items already reported at meeting (R9 Q6(C))

72. Unison noted that the structural set up of social care led to specific impacts on the sector:

> "The Private, Voluntary, Independent Sector is systemically weaker but is being placed third in the queue, at the very best, after Health and Local Government in terms of access to resources."

73. They also highlighted the clear absurdity in the mass discharging of untested hospital patients into this sector:

> "After that you had decisions like the discharge of patients from acute settings with no testing into the weakest part of the system who were being given the poorest sequential access to PPE and those were the ingredients for what became disastrous problems in the third sector. This was entirely foreseeable when you look at the structure of employment relations and Health and Safety in contracted services compared to the NHS and Local Government.

74. Unison also highlighted that the quality and access to PPE was inadequate and poor, and the difficulties being endured by workers:

> "We did get a lot of people from the Private Sector contacting our Union, but it is not a sector where we have influence, and it is not a sector where people tend to be in Trade Unions or know how to make contact with us. However, our contact was intense and frequent, and many people had taken part in the surveys. People were telling us that they were having problems accessing PPE, or there were control restrictions in using PPE, or allegations about the quality of PPE that people were being asked to use. The problems were multiple and coming from all over the country. These were systemic problems; they weren't isolated examples."

"In my mind I can still see a young woman on one of our drop-in online sessions who was absolutely distraught and traumatized by the uncontrollable escalating number of deaths in the community that she was working with in a residential facility. Not being able to afford to leave, not feeling safe to go into work, not knowing how to work safely at work, not being able to have a measured and unemotional conversation with managers about PPE access or how to work safely. That woman was perhaps an extreme example. But she is the one that has stuck in my mind."

75. This was echoed by the GMB union who noted problems with the availability and quality of PPE for those in the care sector:

"There was a shortage of PPE in private care homes, and there wasn't enough PPE for everyone who was working providing direct care. Generally speaking, there was an overall shortage of PPE in the country, so initially the PPE was so scarce that it was being directed towards the NHS, where people who were contracting COVID-19 were being taken. People working in care homes or in community care therefore weren't getting access to PPE, or the equipment that was coming in wasn't the proper equipment that they should have had."

"We also had concerns about the quality of PPE. Essentially, we felt that our members, overwhelmingly low paid, working class, women were being provided with the cheapest possible masks or really low-quality plastic gowns. I recall some members actually had to take their own safety equipment into work. Some care workers were also advised to reuse PPE or were asked to use inadequate or inappropriate equipment."

76. Unite the Union raised[3] their experience of PPE for the care sector, advising:

[3] Unite formal written statement to the Scottish Covid-19 Inquiry by James O'Connell

"For those working in a social care setting, at the beginning at least, PPE was not automatically provided and staff were asked to reuse single use masks or not use them at all. This was despite Unite advising employers and members that this was inappropriate and unsafe. This continued until the national hub was set up. Unite pushed the agenda forward on the protection of staff in the community. These individuals were frightened to go home and isolated from their own families in order to prevent the spread of covid-19 from workplaces to their homes. Individuals within this sector view their job as a vocation and they wanted to protect the people they were supporting. I believe organisations failed these individuals by failing to provide appropriate PPE and guidance."

"We have anecdotal evidence of PPE getting locked away in cupboards and being rationed."

"It took a couple of months to establish the process for fair distribution of PPE. This was likely due to not having to distribute PPE on this scale previously and a lack of resource."

77. The GMB highlighted the accompanying lack of, and inconsistencies in, guidance and advice on the requirements for adequate PPE for workers in the sector in the early stages of the pandemic:

"There was inconsistency in the advice received from the Scottish Government regarding the use of PPE within the care sector, whether it was necessary and in what circumstances. There didn't seem to be any directives given about the bare minimum of PPE that was required, and there was conflicting information about when masks should or shouldn't be worn."

There were also concerns that the advice being given by the Scottish Government about the type of PPE to be used was insufficient to protect the health of workers when dealing with residents and patients with respiratory illnesses. There was a lack of clarity about what types of face

masks would be effective, how long face masks were suitable to be worn for how to dispose of them safely etc. This all increased worker's anxieties and fears."

78. For much of Scotland's health and social care workforce, the guidance issued by the Scottish Government did not take account of the reality of their workplaces. The led to widespread confusion and uncertainty, and some employer's failing to follow basic tenants of the guidance. This left staff feeling vulnerable and exposed to covid-19.

79. The guidance appeared to be drafted with only an acute clinical setting, 1 staffed by professionally trained employees, in mind. The impact of this this was felt most by those working in social care. The guidance did not reflect the reality of their work or their workplaces. This was foreseeable given the limited parameters within which their guidance was drafted. This impact could have been minimised and excluded had those drafting the guidance consulted with those doing the job. For example: Care home guidance was described by some as *"unrealistic"* 3 and *"an impossibility"*.4 It failed to recognise the patients' conditions 5, particularly dementia and the fact that a care home was the residents' homes.

80. There was also a lack of clarity about what PPE should be worn and when. In the initial stages social care staff were being advised by employers that masks (surgical masks) were not part of routine PPE. As noted by Unison[4], who advise that in the "Independent Sector where there were fundamental problems with management advice being "*We will only issue PPE if the service users are symptomatic*"".

81. In relation to carers working in a care at home service, these workers are peripatetic and work between several different service users' homes on each shift. There was a delay in the Scottish Government issuing PPE guidance relating to care at home. By late March 2020 these workers were being repeatedly told that all staff would get the PPE they needed.

[4] Unison formal written statement to the Scottish Covid-19 Inquiry by Peter Hunter

82. However, that was far from the reality on the ground. E.g. *"if they were provided with PPE at all it would at most be a basic mask, gloves and a small plastic apron that only covered the front of their tunic care."*[5] The result was that the potential for community transmission of covid-19 was heighted. Care at home staff were working while at great risk to themselves, their service users and their families. Care at home workers became terrified that they would become vessels of covid-19. They feared contracting covid-19 from services users or giving it to services users; they feared spreading it amongst service users; they feared taking it home to their families. This experience is highlighted in research. The sector was *crying out for guidance and support.*

83. When the Scottish Government did issue guidance to this sector the problem was compounded. It caused widespread confusion, because the PPE requirement was less than other workers. In particular, there was concern that it said care workers did not need to wear masks when dealing with patients who did not show signs of covid-19. An example of the reality of this instruction was provided by a care worker, *"walking into a home at which point a community nurse was leaving that person's home and the community nurse was wearing, you know, full gown, mask, gloves, and yet the individual working in care at home, provision to the social care worker was not entitled to that same protection and nor was that individual living in their own home".* The guidance failed to recognise that a care home worker was going into someone's home. This led down to a complete breakdown in trust between those workers and the Scottish Government.

84. On 4 April 2020 GMB Scotland sent a letter to the First Minister from over 1500 care workers. The letter stated, *"We do not feel safe at work. You have lost our confidence by publishing guidance without consultation with front line workers and by forcing us to work with insufficient PPE".* [RF2/13 - INQ000376410]

85. In response to this letter, the guidance on not wearing masks was revoked. The Cabinet Secretary apologised to workers. This crisis in care at home was entirely avoidable. The Scottish Government ought to have consulted with workers before issuing guidance.

[5] Unite formal written statement to the Scottish Covid-19 Inquiry by James O'Connell

86. The GMB union noted the impact of these issues on its members working in the sector, and the need to highlight this to the Scottish Government [RF2/13 - INQ000376410]:

> "All of these issues were adding to a sense of real anxiety amongst our members. A lot of people were really frightened that the care homes were just becoming a breeding ground for COVID-19. The situation for care home workers became so desperate that 1500 GMB Scotland members in this sector wrote an open letter on 04 April 2020 to the First Minister Nicola Sturgeon, alerting her to the difficulties and pleading for assistance. The letter stated *"We do not feel safe at work. You have lost our confidence by publishing guidance without consultation with front line workers and by forcing us to work with insufficient PPE".*
>
> "GMB Scotland's survey of private care members on PPE and Pay dated 30 March 2020 found, in summary, that:

a. 76% had not been provided with appropriate PPE (masks, gloves, aprons, soaps and hand sanitiser);

b. 85% had not been provided with masks;

c. 99% would support additional payments for private care workers; and

d. Many stated that they were scared, anxious, stressed, over worked, undervalued and angry at being let down by the government."

87. One of the most significant impacts, regarding PPE, originated from the decision to base PPE guidance on the belief that covid-19 could be spread by droplet transfer. This was exacerbated by ongoing failure, as the pandemic progressed, to respond quickly enough to the increasing volume of evidence suggesting that covid-19 transmission was predominately airborne.

88. This meant that workers were not afforded the protection they required. Blue fluid resistant surgical masks did not provide adequate protection from airborne viruses. These were the masks that most workers were, eventually, provided with.

89. FFP3 masks, despite giving healthcare workers the most protection from an airborne virus, were never rolled out on a wholescale basis, and never at all in the care sector. Even as the science progressed, and it was known that the virus was airborne, staff working in non-clinical environments, and in social care, were never provided with FFP3 masks.

Key decisions made by the UK Government and Devolved administrations

90. The decision by the Scottish Government to discharge patients from Hospitals into care homes, without prior covid-19 testing, had a chilling impact on workers. Paul Arkison, of GMB Scotland, described care workers as "very scared going to work knowing that they would be returning home and potentially taking the virus back home with them".

91. Given the situation in care homes, GMB Scotland called for routine testing of all care workers. This call was "ignored" and "dismissed". Routine testing of care workers was announced in October 2020 but no timescale for implementation was provided.

92. The lack of access to testing only added to the feeling of being undervalued. The STUC considers that the Inquiry require to carry out further investigations as to why testing was not provided to care home workers quicker, given the circumstances of discharging patients.

93. It was foreseeable that this policy would result, not only, in the increased spread of covid-19 but would spread fear amongst care home workers. This decision put transport drivers, care home residents, workers, and their families, at risk. This could have been excluded had the patients been tested prior to discharge. It all

placed these workers at the forefront of dealing with unprecedented levels of death and suffering amongst those they cared for.

Operation Koper

94. Operation Koper is a Crown Office Investigation set up in May 2020 to investigate covid-19 related deaths in care homes. The impact of this "was devastating at the time and remains traumatic for hundreds, thousands, of front-line staff". Four years on carers remain under suspicion, despite "no suggestion that we have done anything wrong". The STUC agree with research findings concluding that many in the sector felt that a disproportionate burden was being placed on care homes when compared with the level of investigation into covid-19 deaths in hospitals and other settings.

95. As outlined previously, trade union workplace representatives reported that they were often left to 'police' workplaces and ensure guidance was followed, as some employers failed to do so and there was no enforcement from Health and Safety Executive or local authority environmental health.

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

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

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

Exposure to Infection and Worker Deaths

99. Social care workers were committed to their roles and were in the front line to protect the health of others. They were placed at great risk to themselves, and endured a high exposure to infection, particularly given the limitations on suitable PPE. In terms of exposure, some available data seems to suggest that the rate of self-reported COVID-19 believed to have been caused by exposure at work is around four times higher amongst workers in health and social care compared to the average rate in workers across all industries. *("The Case for the remit for a Covid-19 Public Inquiry in Scotland to Include a Focus on Workplaces, Occupations and Workers by Professor Phil Taylor, University of Strathclyde)*[RF2/16 – INQ000522022]

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

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

102. Some available data suggests that a disproportionately high number of those who died from COVID were engaged in the care sector as compared to the average for all occupations. ("*How Coronavirus has Affected Equality and Human Rights October 2020 by the Equality and Human Rights Commission, p35, and National; and National Records for Scotland)*[RF2/17 – INQ000522023]

103. Other research suggests that differences in mortality rates across occupations reflect both occupational risks and the social class gradient in underlying health. It notes that this stands out as you move from the higher-status end of the classification (Managers, director and senior officials) to the lower end (Cleaners and domestic workers). That research also suggests that in Scotland exceptionally

higher mortality rates were recorded among men in what it termed 'elementary service occupations' in which it included kitchen and catering staff and hospital porters. It also notes that, when compared to England, there were lower mortality rates among men in Scotland working as 'health professionals (medical practitioners, nurses and pharmacists) and in 'caring personal services' (nursing auxiliaries and assistants, ambulance staff) and in care workers. [*The Case for the remit for a Covid-19 Public Inquiry in Scotland to Include a Focus on Workplaces, Occupations and Workers by Professor Phil Taylor, University of Strathclyde* [RF2/18 – INQ000274172].

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

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

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

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

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

109. The STUC were not formally informed that the Health and Safety Executive were no longer carrying out inspections during the pandemic. We are unaware that any of our members were formally notified of this change. Similarly, we were not notified of the decision in March 2020 to no longer classify Covid-19 as a High Consequence Infectious Disease.

110. Unite Scotland raised concerns with the Scottish Government that proper investigations were not being carried out in relation to the outbreak of Covid-19 in healthcare settings and explained in their impact summary for the Scottish Covid-19 Inquiry dated August 2023 [RF2/15 – INQ000376407]:

"Within Scottish healthcare settings, when an infectious disease outbreak occurs, this would be investigated and managed through a problem assessment group which includes Infection Protection Control staff, Occupational H&S, clinical staff including the ward manager, medical staff and staff side representatives. These meetings look at the timelines of the first infection, the movement of all patients, the rotas of staff working within the infected area which gives a very clear oversight in to how the infection entered the area, who all was involved, and clear timelines. The problem assessment group would also implement any measures to contain the outbreak. Taking into consideration the amount of outbreaks within healthcare settings and the frequency of outbreaks, it was impossible to run PAGs for every outbreak and this resulted in Covid Outbreak oversight groups reporting the outbreaks and numbers involved, it was unable to manage or control the outbreaks which we believe led to increased infection rates within hospital settings. If you combine this situation with the lack of RIDDOR investigations, the significant pressure within hospital services, there was very

little in place to allow for learning to stop and prevent the future outbreaks which allowed the virus to run out of control."

111. Further, the ability of the agencies responsible for enforcement of health and safety was limited. Members of the Covid Group met with the Health and Safety executive Scotland on 24th Feb 2021 and raised a number of concerns related to the enforcement and specifically asked for information on:

- Numbers of employers not following Covid safe systems of work have been reported in Scotland so far, and how many of the reported cases have resulted in workplace visits and prosecutions by the HSE?
- How has the HSE dealt with shops in particular large supermarkets who do not enforce the guidelines?
- What is the HSE doing to mitigate underreporting in sectors such as care?

Note, we do not have a record of HSE responding to our requests at the meeting or a minute of the meeting.

Investigation and reporting of workplace deaths

112. The STUC had significant concerns around collection of, and discrepancies in, data on workplace transmission of Covid-19. That was raised with Richard Lochhead, Minister for Just Transition, Employment and Fair Work, on 25 November 2021. We reported that the number of Covid-19 deaths in the transport sector was listed by ONS as 608 but the Health and Safety Executive reported only 10. It is likely that employers were attributing cases to community rather than workplace transmission. We shared these concerns with the Minister along with the TUC report "RIDDOR, Covid and under-reporting" published 23 May 2021. [RF2/19 - INQ000107239]

113. The concerns of the unions regarding under-reporting via RIDDOR were vindicated when the TUC report on RIDDOR under-reporting emerged [RF2/19 - INQ000107239] and this was also consistently raised with the Scottish Government at the Covid response meetings.

114. The TUC report also highlighted under-reporting in other sectors, including in health and social care and, therefore, the situation of under-reporting in these sectors was also raised at meetings with the Scottish Government.

115. It is our contention that the under reporting of workplace Covid cases via RIDDOR presented an inaccurate picture, influenced the taking of wrong decisions and is, therefore, likely to have contributed to Covid cases and, subsequently Long Covid cases, which could have been avoided.

116. We fully support amendments to legislation to recognise Covid-19 as an occupational disease. The lack of testing and use of robust test and trace procedures during the pandemic, particularly in the early stages, have shown the difficulty in evidencing workplace transmission. However, the number of deaths amongst health and social care workers is disproportionate compared to other employment sectors and roles. We firmly believe that those workers delivering essential services in health and social care were put at risk while carrying out their roles and in some instances, this has resulted in the tragic loss of life.

117. The failure to consider Covid-19 as an occupational disease has also impacted on workers who have contracted Long Covid. The lack of acknowledgement and formal reporting of Long Covid as an occupational disease leaves workers without access to support and relevant employment policies that their employers would otherwise be expected to offer. It also limits workers protection and rights to claim compensation and relevant benefits.

118. The STUC has worked closely with Mark Griffin MSP to build support for his Private Members Bill through the Scottish Parliament to establish a Scottish Industrial Injury Advisory Council. The Scottish Government have not supported the Bill. We have also contributed to Scottish Government's consultation on their proposals for a Scottish Employment Injury Assistance benefit.

Impact of the Covid-19 pandemic

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

120. GMB Scotland reported on a survey of members in social care in April 2020 [RF2/19a - INQ000376413] where 80% of members had not had any contact from their employer about mental health support and 86% of members thought that not enough support was in place to help cope with mental health during the crisis so far:

"For many months the mental health concerns of members were ignored as they dealt with serious risk to their own and their families' health."

121. Unison Scotland reported in June 2020 on "Underlying Inequalities & Infection Risk - Black Workers & Covid19" [- RF2/19b - INQ000215615] The report noted the stark reality facing black workers:

"Black workers are over four times more likely to die from Covid19 than white people. Of the first 100 deaths in frontline health and care jobs around 70% were Black, Asian or minority ethnic workers."

122. The report summarised Unison Scotland survey results noting black workers were:

a) *"more fearful of infection,*
b) *more concerned about PPE access,*
c) *more fearful of onward infection to family,*
d) *less likely to get sick pay,*
e) *more fearful of losing their job,*
f) *more worried about reduced income and*

g) more concerned about meeting living costs"

123. The report concluded that "bad jobs kill and Fair Work saves lives". Unison Scotland provided a specific risk assessment tool for BAME workers"

124. The STUC lobbied the Scottish Government and pressed for employers to provide financial, well-being, mental health and other support to healthcare staff during the pandemic. We were successful in agreeing the Coronavirus Fair Work statement with Scottish Government [RF2/20 – INQ000107242] that offered financial protection for public sector workers including health and social care:

"No worker should be financially penalised for following medical advice. Any absence relating to COVID-19 should not affect future sick pay entitlement or other entitlements like holiday or accrued time".

125. Increased absence of care staff has impacted the physical and mental wellbeing of staff with all unions reporting this issue both during the pandemic and ongoing as staff struggle to cover workloads. Increased absence was a key concern during the pandemic for social care workers. Workers in social care were absent due to following self-isolation guidance, contracting Covid-19, poor mental health and burnout creating increased workloads and pressure on those attending work.

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

127. A Unison Scotland survey of social care workers in 2021 [RF2/21 – INQ000376408] reported in "The Burnout Pandemic" that sickness absence as the main reason for staffing shortages which in turn were caused by stress, burnout, covid and long covid. A staggering 96% of staff who took part in the survey reported staffing shortages.

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

129. The social care workforce is predominantly women (around 83%) with a higher proportion of black and minority ethnic workers and older workers.

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

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

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

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

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

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

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

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

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

139. Members reported anecdotally that a higher percentage of black and minority ethnic workers had contracted COVID and in some instances this proved to be fatal. This was evidenced by National Statistics who reported in November 2021 that: *"Deaths amongst people with Pakistani ethnicity were 3.7 times as likely to*

involve COVID-19 as deaths among those with White Scottish ethnicity. Deaths amongst people with Other Asian ethnicity were three times as likely and deaths among those with Chinese and Indian ethnicities were both 1.7 times as likely to involve COVID-19 as deaths in those with White Scottish ethnicity". [RF2/22 – INQ000512514]

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

Financial Impacts and Sick Pay

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

142. At a meeting with Jeanne Freeman, Cabinet Secretary for Health and Sport and Jason Leitch, Scottish Government National Clinical Director on 13th May 2020 we raised the issue of sick pay, in particular providing feedback from social care where the note of the meeting states:

> "*in terms of care homes, whole home testing and that the levels of positive tests for those showing no symptoms is coming back high. ….. also advised that they are picking up from the workforce, that workers are afraid of being tested in case they test positive and therefore end up in isolation at home on SSP...*" [RF2/03 – INQ000107206]

143. The Cabinet Secretary noted that care workers are on low wages and agreed to further consider the issue. On 24 May 2020, she announced funding for social care workers to receive enhanced sick pay when they are self-isolating following a positive Covid19 test [RF2/23 - INQ000215614]. The resulting Social Care Support Fund was extended on several occasions until 31 March 2023.

144. Despite the sick pay fund being in place, we were made aware of employers failing to access or use the fund, or failing to inform affected healthcare staff of its existence.

145. A GMB Scotland survey[6] of private care members on Accessing the Social Care Support Fund dated 3 July 2020 (to which they received 650 responses) found, in summary, that:

a. 89% had not had any communication from their employer about the support fund;

b. 55% had experienced financial hardship during COVID-19 from being absent at work;

c. 95% of those with lost earnings had not had a payment from the fund; and

d. 85% did not have confidence that their employer would reimburse wages quickly.

146. We also experienced several frustrations that some actions that the Scottish Government and the STUC agreed upon as essential could not be implemented due to limits of devolution and a lack of financial support from the UK Government. Framing the pandemic response correctly in public health policy allowed the Scottish Government to provide regulations and guidance to employers regarding workers safety. However, the lack of control over employment laws often limited the response, actions and funding that the STUC and Scottish Government agreed were required. We would therefore recommend the devolution of employment law to the Scottish Parliament.

[6] GMB statement to the Scottish Covid-19 Inquiry by Paul Arkison

Additional matters

147. Further concerns were raised around the granularity of data recorded for black and minority ethnic workers. We first raised this as an issue with Scottish Government following the release of a letter to the First Minister from the STUC Black Workers Committee on 22nd May 2020 [RF2/ 23a - INQ000107240] stating:

> *"Black and Minority Ethnic Workers are employed at a higher rate within the key workers category identified by Government and yet are more likely to be paid less than their white counterparts. They are over-represented in roles and jobs which put them at even greater risk to being exposed to illness and disease.*
>
> *"…. we are calling upon the Scottish Government to take urgent action to ensure that they immediately record, analyse, and publish the disaggregated data on the number of Black and Ethnic Minority (BME) deaths in Scotland that have occurred as a consequence of COVID -19.Record, analyse and publish the disaggregated data on how COVID 19 has affected Black and Minority Ethnic communities".*

148. Similar concerns were raised early in the pandemic by the Coalition for Racial Equality and Rights who noted: *"The divergence in data practices between Scotland and the rest of the UK isn't acceptable, and the excuse that minority ethnic communities here are small in number will no longer stand. If anything, this makes it more important to have robust and comprehensive data collection".* [RF2/24 – INQ000320509]

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

150. The Scottish Government created an Expert Reference Group on COVID-19 and ethnicity. I think this was created around September 2020. I understand that, due to inadequate sample sizes being available at that time, it was ultimately concluded that, it would have to adopt and use UK wide data to inform policy in Scotland. I understand that disaggregated data was thereafter available [RF2/25 – INQ000215609]. In the absence of Scotland specific data, this is the next best thing. A key lesson for any future emergency will be to ensure resources and systems are in place to provide adequate and disaggregated data can be collected from the outset.

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

152. A report prepared by Unison titled "Underlying Inequalities & Infection Risk - Black Workers & Covid19" sets out further information on these issues [RF2/19b - INQ000215615]

Long Covid

153. It is also vital to highlight that given the high levels of exposure to the virus many social care workers will now living with Long Covid, which has impacted heavily on those affected. They have endured, and continue to endure, life-changing impacts on their health and on their personal and family lives and many fear for the future. Many are unable to return to work full-time and have seen careers falter while living in fear of losing their jobs through capability dismissal. Others have already lost their jobs.

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

industrial injury claims. Likewise, Long Covid is not automatically recognised as a disability under the Equality Act 2010.

155. It is estimated that over 175,000 people in Scotland have reported symptoms of Long Covid. Social care workers make up 5.72% of those with Long Covid and 4.45% are health care workers. While these percentages are UK statistics we would expect them to reflect similar totals for Scotland. [RF2/26 – INQ000376411]

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

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

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

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

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

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

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

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

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

164. There are grave lessons to be learned about the impact that years of budget cuts and austerity policies had on the resilience of our key public services like social care and health services to deal with a pandemic. As evidenced by the staffing issues, lack of adequate PPE, etc that impacted greatly on effective service delivery at a peak and extremely critical time.

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

166. There is also in our view a need to look at whether the level of powers devolved to Scotland were appropriate. For example due to its public safety responsibilities it was necessary for the Scottish Government and trade unions to engage in detail on setting workplace safety measures for those attending workplaces during the pandemic. However the effectiveness of these measures was lessened due to the lack of Scottish Government powers over employment law, health and safety law and equalities laws Scotland. It is the STUC's view that Scottish Government would have been in a position to act more decisively and effectively during the pandemic and to meet their public health obligations more effectively, had they been in full control of these areas as part of their devolved powers.

I believe the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: **Personal Data**

Name: Rozanne Foyer

Dated: 29th January 2025