OPUS 2

Scottish Covid-19 Inquiry

Day 37

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(9.30 am)

THE CHAIR: Good morning, Mr Gale.

MR GALE: Good morning, my Lord.

This morning, my Lord, we're beginning with a number of witnesses from the STUC and various affiliate unions of the STUC. Our first witness this morning is Rozanne Foyer, who is the general secretary of the STUC.

MS ROZANNE FOYER (called)

THE CHAIR: Good morning, Ms Foyer.

A. Good morning.

MR GALE: Her statement is SCI-WT0817-000001. Therefore with leave, my Lord, I'll begin her evidence.

THE CHAIR: Yes, do.

Questions by MR GALE

MR GALE: Ms Foyer, good morning.

A. Good morning.

Q. You are Rozanne Foyer, I think; is that right?

A. I am, yes.

Q. I think you're known as "Roz" more commonly.

A. That's right.

Q. You are the general secretary of the STUC?

A. I am, yes.

Q. I think you took up that position almost contemporaneously with the first lockdown.

A. Indeed, yes, 16 March 2020.

Q. 16 March 2020.

Now, also in relation to your position as general secretary, you have already given evidence to the United Kingdom Inquiry when it sat in Edinburgh on Wednesday, 17 January of this year?

A. That's correct.

Q. And your evidence for the record is recorded in the transcript of that day at pages 29 to 52. You also provided a statement to the UKI and we have available that statement to us. As I say, you gave evidence to the UKI in the context of Module 2A, as they are calling it, which was examining the Scottish Government's core decision-making between January 2020 and May 2022. Your statement to the UKI was divided into five parts. For present purposes we note that part E of that statement is in respect of the impact on STUC members --

A. Yes.

Q. -- but it was a relatively short part of that statement, as I've noted it.

A. [Nods]

Q. Again, just for the record, Ms Foyer, you are agreeable that your statement be published and that the evidence you give today in amplification of that statement is recorded for our purposes as we progress?

A. Yes, I am.

Q. You've provided us with a detailed statement and we're very grateful to you for that. As you say at paragraph 4 of that statement, the statement relates to the impact of those working within the health and social care sectors.

A. Yes, it does.

Q. Yes. Your own personal background is set out at paragraph 5, but can you just tell us a little bit about your role as general secretary, what it involves and in particular what it involved during the pandemic because you were there from the outset.

A. Yes. I'm the principal officer of the Scottish TUC, and the Scottish TUC, as you will know, is the umbrella body for trade unions in Scotland. We represent over half a million trade union members and our purpose is to co-ordinate and articulate and campaign around their views and aspirations as workers and citizens.

In the context of the pandemic, we were obviously dealing with a very, very critical situation that affected many of our members, particularly those working on the front line delivering essential services, and the predominant role that we had was to liaise with and lobby Government to try to get measures put in place to increase the protections available to our members and to

campaign around the issues that affected them throughout the pandemic at their place of work.

Q. Thank you. I'm going to take for present purposes, given time constraints, Ms Foyer, the section of your statement in which you give an overview of the STUC as read, save to say that I think at paragraph 11 of your statement you tell us about affiliates and works councils and you have helpfully set out, at appendix A to the statement, a list of those affiliated unions which have an interest in health and social care.

A. Yes.

Q. In the course of your statement, on several occasions you quote from representations that have been made by various of the affiliates to illustrate various of the points that you're wanting to make; is that right?

A. Yes, that's correct.

Q. Can you just indicate how you went about choosing the various quotations that you've given and just at this stage in general terms indicate what purpose you seek to make when you make these statements?

A. I think our purpose is in ensuring that, as far as possible, workers' voices are heard and, you know, at the highest levels. By its very nature the STUC's role is to take an overview. We had many affiliates contacting us around many different issues and the

statements I've picked would be the ones that show the most commonly experienced situations or challenges that workers were facing at that time. So it's to give some example and some voice to our members who actually were on the front line. We are simply the umbrella body that represents those views.

Q. I think we will be hearing from representatives of various of the affiliates ——

A. Indeed.

Q. —— and we will get perhaps more of the context ——

A. Yes.

Q. —— that those quotations are given in as we go through their evidence.

One point I would like to ask you about at the outset is you have provided us with a brief overview of the STUC's engagement with the Scottish Government during the pandemic —— pre—pandemic as well but during the pandemic in particular. I think, as you will appreciate, this is something that the Inquiry will return to ——

A. Indeed.

Q. —— when we're going to be dealing with both implementation but more particularly with decision—making as we progress through our investigations. But what I'd like to ask you about

is —— to get some context for your evidence, I'd like to ask you about the COVID Group that you mention at paragraphs 22 and following of your statement. Can you just tell us how the COVID Group came about and what its purpose was?

A. Yes, we obviously, very rapidly, like many organisations, went into a home—working model and a model where there were no physical meetings. We were dealing with a very critical and rapidly changing situation and we needed a forum whereby our trade unions on the ground and our reps could get through problems, issues, very quickly to us that could be escalated to the Scottish Government. We made an agreement with the Cabinet Secretary, Fiona Hyslop, at the time that we would meet, and at the beginning it was very intensive engagement, it was twice—weekly meetings, and the unions represented on the COVID Group were those unions whose members were most engaged in the delivery of essential front—line services. We did bring in others from time to time. And that group was meeting, you know, several times a week to escalate issues and to highlight problems to Scottish Government, areas where we saw gaps or action that needed to be taken.

Q. I think you indicate at paragraph 30 of your statement that the STUC was given good access to

Scottish Government and efforts were made by the Scottish Government to build effective communication channels so that workers' concerns could be raised and to discuss any issues or problems on the ground at the different stages of the Government's COVID response as they emerged.

A. Yes.

Q. So it seems a relatively —— according to what you're saying there, a relatively positive engagement with the Scottish Government?

A. It was a welcome engagement and it was very important that the Scottish Government were talking to trade unions because our members were in a position to highlight issues to them that they wouldn't have otherwise been able to address. So it was something that we saw as a very positive engagement. We didn't always get everything we asked for but that access alone was a positive development for us.

Q. And I think one of the things that we will hear about, both from yourself and from representatives of your affiliates, is that throughout the pandemic your affiliates and indeed the STUC carried out surveys of members so that there was always an input into either the affiliate or to the STUC more generally of information which could then be translated on to the

Government as and when necessary.

A. Yes.

Q. Now, you've listed in paragraph 30 various areas where this arrangement and engagement with the Government had benefits, if I can put it that way, and you conclude at paragraph 31 that the engagement between the STUC and the Government was such that, insofar as the response to the pandemic was concerned, it did make a positive difference.

A. Yes, there were a number of areas where we were able to make progress on key issues on behalf of our members that had been very much lacking in the opening stages of the pandemic. We think that our discussions were able to make a positive difference around issues like PPE, around the introduction of a sick pay scheme for social care staff, around the Fair Work coronavirus statement, which many reps used actively in the workplace to secure terms and conditions that stopped any detriment to workers who were taking time off sick across the public sector and a range of other areas where we felt that there was, you know, some progress made.

Q. Some of these issues are matters that other colleagues within the Inquiry team will take up with the STUC and in particular issues, for example, about sick pay and ——

A. Yeah.

Q. —— because those fall within matters relating to welfare.
A. Yes.
Q. So in this —— at the moment we're conscious of what you're saying, but there will be further details in relation to those matters that will be taken up.
Could I just ask you a little bit about what you say in the final part of paragraph 31 of your statement, where you say that, as a result of the engagement that you had with the Scottish Government, "the response of [the] government in Scotland was more agile and placed more emphasis on public safety before profits than the UK government did", and you go on to say, "and lives were undoubtedly saved as a result".
A. Yes.
Q. Can you expand on that a little, please?
A. I think there were a number of interventions where we were able to highlight concerns of our members, so, for example, areas like social distancing around the commute and transport for emergency workers, discussions around school closures and the timing of those and frequency of those, and a range of issues around public safety guidance that applied to specific workplaces that we worked on with Scottish Government that introduced measures that were arguably more stringent measures than

happened south of the border at UK level, and we believe that that would save lives.
Q. You do however qualify that in paragraph 32.
A. Indeed.
Q. You say that there were examples where you "did not feel adequately resourced to keep up with the speed of [the] engagement". Again, can you perhaps give us some examples of that and why there was perhaps a difficulty?
A. Well, I think it has to be remembered that the trade union movement is very much a voluntary movement. Many of our reps are workers who were working full—time in essential services and doing their best to represent their members, and the very best experience that we can deliver to Government is the experience —— the lived experience of workers who are reps in the workplace. So it was often very difficult, when people were under real pressure, to get a quick review of guidance or to consult effectively with the people who had the right expertise. An example of that perhaps would be, you know, we lobbied very hard about a range of really serious issues around PPE, its availability, its suitability, its fit for purposeness in various situations, and when Scottish Government finally got round to producing its plan, it was in September 2020 and we were given only 24 hours to respond to the

proposals in the plan, which we felt was completely inadequate given that for months we'd been raising issues with Scottish Government around these very important areas of safety.
Q. On that particular point, did you feel that there had been a delay in producing that plan or was it that, having produced the plan, there was inadequate time for you to make your representations in relation to it?
A. I think more than a delay, we felt actually on the issue of PPE that there was a huge failure by the Scottish Government to actually have a plan already in place, training already in place, PPP stock— —— sorry, PPE stockpiles already in place. There had been enough reviews in previous years that we felt this guidance should have already existed and been available. You know, that's one of the biggest failures for us in terms of front—line workers who were exposed unnecessarily to this virus, particularly in the early stages when the appropriate PPE just wasn't available and it absolutely should have been.
Q. I think, perhaps skipping ahead slightly, one of the points you make subsequently in your statement is the issue that the Inquiry has heard a little bit about already, and that is the concentration in Government guidance or the basis for Government guidance on the

mode of transmission of the virus being droplet transmission rather than aerosol and airborne transmission. Was that a problem that you experienced in relation to the availability and type of PPE that was made available?
A. Yes, that was an issue that was raised by a number of our affiliates, trade unions across the health and social care sector. I think the feeling was that the initial response of Government failed to recognise the potential for aerosol transmission and, you know, that the preparation just hadn't been done on the sort of masks and PPE that actually were required, and there should have been these measures already in place for the use of staff. So, for example, the FFP3 mask was severely limited and it felt as though it was being rationed to a very small number of uses, and many of our members across health and social care, you know, felt that the procedures they were carrying out merited use of that level of PPE and it just wasn't available for them.
Q. Thank you. Taking the matter on a little bit and perhaps broadening the issue, in paragraphs 37 to 39 of your statement you raise the issue of austerity and indicate, if I can put it shortly, that that was an issue impacting on the social care sector as a public

service which was already in crisis pre—pandemic. Am I right in understanding your position on that?
A. Yes, absolutely. The STUC had already, over several years, been involved in lobbying and campaigning around the issue of the underfunding of social care and particularly the local government aspects of social care that's delivered in the community. However, the whole model is something that we had real concerns around and I think that, you know, it was of no surprise to us that much of the preparation wasn't there, given the overstretched nature already of staffing levels right across various parts of health and social care and the cuts that had been made. There was already a recruitment crisis in social care, for example, before we entered the pandemic and it's just been the perfect storm really in terms of where we've ended up now.
Q. Was Brexit an issue for that?
A. I think, in terms of the availability of workers, it has contributed, but I would say that the main contributory factors are the way that the funding model is constructed and the pay and conditions of workers in social care. It's an area where over 80% of the workforce are female, the work is undervalued and the skill set required to undertake that work is not, you know, being properly remunerated. You can go and get

a job in a supermarket and earn more money than you can doing the highly skilled work involved in being a social care worker.
Q. Thank you. At paragraph 45 and following of your statement you've set out a number of recorded observations by several of your affiliates telling you and now us about the impact that the pandemic had on the levels of stress and anxiety experienced by, in particular, key workers. Now, obviously this is a particular area that the Inquiry is particularly interested in because it's the stress, anxiety, leading to mental health issues. Was that something that you and your affiliates were constantly aware of during the pandemic?
A. We were acutely aware of that issue. Survey after survey, report back after report back, showed us that, you know, we had a group of workers who were being seriously impacted by the work they were carrying out and, you know, that's really wide—ranging, the mental health impacts and really long—term consequences of those impacts. I mean, we're talking about workers, many of whom were on pretty low levels of pay and conditions but were being exposed to unprecedented levels of human suffering and death around them. The staffing levels —— because of the high sick leave

levels, there was a really vicious circle of people going off with stress but also with COVID and long COVID and then staffing levels being completely unsustainable for those left in the workplace, who were doing their best to cope in a crisis situation.
There were people moved into areas they didn't have experience of and hadn't worked in before. There was very little mental health support on an ongoing basis for that workforce, but, you know, we're talking about workers in extreme distress, who were burnt out, who were mentally and physically exhausted, who have suffered post traumatic stress disorder as a result of their experiences, and now what we're seeing and have seen during and immediately after the pandemic were our unions reporting back to us about unprecedented levels of workers taking early retirement and leaving their roles because they just —— you know, it wasn't an experience they could go on with. So it's something that I think really needs to be understood, that these are a group of workers who were putting themselves and their families at risk on a daily basis and the fear factor for those workers took its toll massively.
Q. Were those effects long term?
A. Yes, I would say so. I think we are still seeing —— you know, when we look at staffing levels across social care

and in the Health Service in Scotland, we are still seeing the aftershocks of the crisis and many of our members —— you know, long COVID and the physical effects of COVID are one thing that's still long term, but the mental effects of COVID are perhaps a hidden aspect of this but had a very high impact on our workforce.
Q. One of the points you made in one of the longer answers you gave —— sorry, that's not a criticism of the answer —— but one of the points you made was about, if I can put it this way, redeployment of workers to areas perhaps that were not their normal area of specialty.
A. Yes.
Q. Is that something that, again, the STUC was aware of during the pandemic?
A. Yes. We had —— I think GMB actually gave us an example of workers who —— you know, wards were being closed down due to lack of services, non—essential work was not getting carried out by the NHS and workers were being redeployed, sometimes into intensive care units, which were probably the most difficult places to work at that time, when the pandemic was at its height. And, you know, the after—effects for staff who perhaps hadn't been fully trained for some of those roles were quite severe.
Q. Yes. A point you make at paragraph 51 of your statement

is the ever—changing guidance.
A. Yes.
Q. Again this is something in a variety of contexts that the Inquiry has heard about and is conscious of. Obviously, with rapidly changing and substantially changing guidance, the need to understand that and to communicate that to workers and those who required to observe it was an important consideration. What was the TUC's position on the way in which guidance was changing very rapidly?
A. Yes, I think that there was an understanding that, by its very nature —— we might not have started out in the ideal place but, given where we had started out from, there would be a need for guidance to be updated and to change. That did put pressure on —— you know, additional pressure on staff's mental health, but at least in areas where, you know, there were recognised trade unions, there were health and safety reps. What our reps reported was they spent a lot of time on roll—out of new guidance and on making sure that their members were aware of that guidance.
I think in our experience where that system of new guidance being introduced very quickly started to fall down even more was across areas of social care, where perhaps a lot of the guidance wasn't getting through,

wasn't being disseminated and wasn't being, you know, fully understood or being misinterpreted by some smaller employers, and that was a real concern to us.
Q. Can I move on to the question of recruitment and retention of staff? This is something you deal with at paragraph 58 of your statement and you refer to, I think, the fact that the negative impact on recruitment and retention of staff is something that is evidenced by the Scottish Government's announcement to invest an additional £15 million to address staffing shortages in the NHS.
A. Hmm—hmm.
Q. Obviously that's part of the social care and health workforce. What's the position, as far as your members are aware, of the impact on recruitment and retention in the social care sector which is not part of the NHS?
A. The feedback we've had from member unions on social care in particular is that it is in a very, very unsustainable shape at the moment. I think you referred to some of the migration policy of the Government and I think that, you know, another blow has very recently been dealt to the sector through some of the UK's migration policy, stopping migrants from bringing family members to settle with them.
But we have a situation where the use of agency

labour is through the roof. That in itself is not a good use of public funding in terms of it's much more effective to have a stable workforce. But given the rates of pay that are offered in social care, it is very difficult to recruit workers into that sector at this point in time and I think many of the experienced workers who worked through the pandemic had such a traumatic experience that many of them have left the sector.
So we have a really difficult situation in social care at the moment and it would be the STUC's contention that actually social care is one of the areas that we really need to look at and learn lessons from. We are extremely concerned that some of the lessons that had been learned about protecting workers and making sure they didn't suffer detriment from long COVID or around making sure social care workers do receive full sick pay to take time off when they're unwell —— these things have already been rolled back on and, you know, it just shows that we're not learning some of the key lessons that came out of the pandemic, hence why we're still in a state of deep crisis in social care.
Q. Can I refer you to paragraph 66 of your statement, please? We will hear from the UNISON affiliate representative in due course, but I think it's useful to

get this piece of evidence out at this stage. There was a UNISON survey of social care workers in 2021. It's reported in a document called "The Burnout Pandemic dated February 2022". That's something you've provided to the Inquiry, for which we're grateful.
Can you just explain what was being shown in that —— and the point that you're highlighting, what was being shown in that report?
A. Yeah, I think what has been demonstrated is a really vicious circle in social care because you have a situation where the staff are burnt out, they're stressed, they are experiencing or have experienced, over the period leading up to that survey, real trauma in their workplace with unprecedented situations that they'd never had to deal with before. That in itself caused many social care staff to have to take time off because they either had COVID or they had long COVID, but they had also the added —— the addition of workers who were stressed and burned out having to take time off. That then created a situation where staffing levels were very acute and people were really short—staffed, which put more stress and pressure on the workers who were left.
I think you have to add into that really toxic mix some real issues in certain parts of social care around

a lack of interpretation and understanding of guidance. So we've got evidence where some employers were not applying the sick pay scheme, even though it was available to them; we have evidence of PPE being rationed or unavailable to workers in those areas and -- you know, a really, really difficult sector to work in and a lot of those workers felt abandoned really and very, very low. Also just their experience of watching their residents, who they cared deeply about, and the situations the residents were going through was really upsetting and distressing.

Q. One thing that you do highlight at paragraph 66 is what you term a "staggering 96% of staff who took part in the survey reported staffing shortages". Now, I suppose one could always expect staff to say, "There's not enough of us, we're experiencing shortages, we would want ideally more staff", but was that level of response, in your view, indicative of a more serious problem?

A. Yes. We're talking about extremely serious levels of staffing shortages that necessitated, you know, very difficult action to be taken. So, for example, in home care in Glasgow, at one point they had to reduce their service to life and limb cover only and thousands of clients and users of that service no longer had care packages for a period of time. And, you know, that was

just one example of some of the quite large measures that had to be taken. And you're talking about home care workers who then are really worried about some of the clients and users of their services.

By its very nature, care involves emotional investment by the worker and you don't just stop looking after someone and not worry about them. So, you know, when you've got those kind of difficult decisions having to be made on a daily basis and where you're having to actually compromise the level of care in the services that you're delivering, that is soul-destroying for care workers.

Q. I suppose one of the points that perhaps is not always appreciated is that carers can develop a bond of affection with those they are caring for and either the deaths or the illness of those people that they're caring for is something that they can feel very deeply.

A. Absolutely, and I think that, you know -- I would change that word from "can" to "do". They do habitually develop that bond. I would say that's part of good care, is that emotional aspect. You know, that requires real skill but a lot of genuine emotional investment by the employee involved in delivering the care.

Q. One of the tragic aspects of the pandemic, amongst many, I suppose, is the level of deaths within those providing

social care. You deal with this at paragraph 67 and following of your statement, and thank you for the reference to the paper by Professor Taylor. That's something we will be looking at.

You do make reference at paragraph 69 that there is insufficient data on worker deaths during the pandemic and the available data can be difficult to reconcile. Can you explain that, please?

A. Yes. We became increasingly concerned, due to the very emergency crisis nature of the pandemic across our health and social care services, that normal reporting procedures weren't being followed in a great many cases. For us this was a concern because, you know, we believe that there is very strong evidence that shows that certain occupations were directly affected and that their exposure would have been through their occupation and their workplace duties. But in many cases exposure to COVID wasn't being recorded under RIDDOR and other health and safety processes in the way that it normally would have at a non-crisis, non-emergency time. This was predominantly down to the staffing shortages and the resource issues that we've talked about. So, for example, in the NHS our understanding is that this only was carried out in its fullest form when there was a fatality, but we believe that across wider health and

social care there were reports being missed or not attributed to workplace exposure that should have been attributed to workplace exposure at the time.

Q. Just an expression that you use -- and you use it again later in your statement -- which you use in paragraph 71, and you say:

"Other research suggests that differences in mortality rates across occupations reflect both occupational risks and the social class gradient in underlying health."

It's that expression, "social class gradient in underlying health" that I particularly want to ask you about because, as I say, you use it again later on. What are you conveying with that?

A. I think what we are conveying with that is that there is evidence to show that COVID was a class killer in terms of, you know, your social class matters in whether you contracted COVID and also as a determinant in how serious your virus may be. We found that, you know, you can look at occupations but, when you start to break down those occupations, those who worked in clinical health in higher grades, for example, were less likely to be exposed to COVID or to have a fatality from COVID whereas those on lower grades and in lower social economic groups would be more likely to succumb to it

but also succumb more seriously to the effects of the virus.

So I think, you know, it disproportionately affected people. Now, some of that might be due to underlying health issues to begin with; some of it though, we feel, was around the sort of work that was being carried out. So the people like -- the people who were cleaning out the ambulances, the porters, the cleaners in hospitals, you know, might not have been getting the best kit and the best PPE but they were undoubtedly being exposed to the virus, which we now know was airborne, on a daily basis. You know, we think there are key lessons to be learned there in terms of which roles were exposed and also the impact on those people.

Q. Thank you. Long COVID is something you deal with in your statement and, again, this is something the Inquiry has heard a considerable amount of evidence about so far and will continue to hear more specific evidence about it. One of the issues that we've heard evidence about is the scepticism really across various sectors, including among health professionals, as to the veracity, if we can put it that way, of long COVID. Paragraph 77, you refer to the steps that the STUC has taken to highlight the complexities in diagnosis, et cetera, and the support of members suffering

long COVID. Can you tell us what steps the TUC has taken in that regard?

A. Yes. We've -- obviously we've worked with Long COVID Scotland to highlight awareness of long COVID as an issue. We've held events and briefing sessions for trade union representatives so that they can support members who are reporting long COVID and we have promoted reports and research around long COVID and who it is affecting. For us, long COVID is a serious issue that needs to be recognised. We believe that, you know, over 175,000 people in Scotland have reported symptoms of long COVID and we have workers across health and social care who are still suffering the long-term after-effects of having been exposed to COVID, and in some cases that is life-changing for them and is having an ongoing impact on themselves and their families.

So we would like to see long COVID being recognised as an industrial occupational illness and, you know, appropriate industrial injury benefit being applied to sufferers of long COVID as well as compensation for those that paid the ultimate price and, you know, had fatality as a result of exposure.

Q. Is it your experience that long COVID presents an obstacle or is continuing to present an obstacle to staffing, particularly in the care sector?

A. It's our experience that there are enough people who -- it's certainly an obstacle to staffing levels in terms of the numbers who have it. There's only a small number of people who have it on a very, very long-term basis, but for those workers it certainly is an obstacle to them re-entering their roles in the workforce.

At the beginning we had a statement -- a Fair Work COVID statement that we'd agreed with the Scottish Government that covered most of the public sector and a range of publicly funded areas that said that workers shouldn't suffer any detriment should they be off with long COVID. That statement was changed and withdrawn so that that protection no longer exists. So many of the workers who have serious cases of long COVID actually are no longer able to be part of the social care workforce. They've been removed from the workforce.

Q. Right. Can I move on to perhaps one of the more controversial subjects, and that is the availability and sufficiency of PPE.

A. Yes.

Q. You've provided us with a section of your statement headed "Infection Prevention and Control" at paragraphs 82 to 101. Again, you've provided the Inquiry throughout that with various references to

observations from a number of your affiliates and obviously we can read these.

There's a couple of points I'd like to take up with you. First of all, at paragraph 88, you observe that unions would advise their members in certain circumstances to utilise the protection afforded by section 44 of the Employment Rights Act. Can you explain why, in the context of the availability or non-availability of PPE, that right or those rights might be invoked?

A. Yes. Section 4 of the Health and Safety at Work Act allows an employee to take appropriate steps to protect themselves from serious or imminent danger to their health and safety, and there were occasions, particularly in the early stages of the virus -- and I remember the Scottish Ambulance Service being a really difficult area at that time -- where appropriate PPE was not available in a whole range of areas. And trade unions and their members were growing increasingly concerned and Unite, the trade union, did advise its members to invoke section 44 of the Act if they were not issued with suitable PPE and were being sent out to deal with situations and carry out their duties and that, if they were feeling unsafe and they felt they hadn't been given appropriate PPE, it was advice they were given,

that they could invoke section 44.

This was at a point where other unions who operated in that sector —— GMB I believe sent an open letter to Government to highlight the extreme concerns that workers had. We almost had a mass walk—out at that stage. The situation was resolved, but it was really, really telling of some of the massive failures of Government to protect the front—line staff that, you know, the PPE just wasn't there. The stockpiles that should have been there, the equipment that should have been available to staff for just such a situation, wasn't available to them when they needed it most, and that was a real failing.

Q. The second point I'd like to ask you about is what you say at paragraph 89 of your statement. You say that in the early stages of the pandemic that "staff in a variety of health ... care settings were not receiving PPE", and you tell us that this was raised frequently, initially with Fiona Hyslop, who I think was the Cabinet Secretary for the Economy at that time. Explain what was done at that stage. What representations were you making?

A. So at that stage we were in touch with the Cabinet Secretary. That would have been one of the very earliest meetings. I actually think that was a specific

meeting around that issue, if I can remember correctly. We were raising it not only with the Cabinet Secretary for Economy, who was our key contact in the COVID Group, but it was also being raised obviously with the Cabinet Secretary for Health, Jeane Freeman, and across —— you know, we were also highlighting it to the media as well because this was something that was going to lead to a crisis situation if our members didn't feel safe at the very basic level to carry out their duties in the context of the pandemic.

Q. Interestingly, at paragraph 90, you tell us about an online survey which was carried out in the last week of March 2020, so very early in the pandemic ——

A. Yeah.

Q. —— and reported that over half of respondents who were required to work didn't feel safe, with 42% saying they did not have access to adequate PPE.

A. Yeah, and at that early stage we're not just talking about, you know —— this is right across health and social care. We had areas that you would expect —— you know, our emergency services that didn't have access to adequate and appropriate PPE at that stage, but, you know, we had areas, local governments, social care workers, that were supporting people in their homes. I'm aware of reps who were going out and buying hand

sanitiser and masks for their members out of their own money to try and give them some protection. There was a massive shortage of PPE right across the public sector and the private sector was in an even worse state, to be honest.

Q. Now, you've provided us with a useful summary of the issues that were caused by the limited supply of PPE. You do this in paragraph 95 of your statement and obviously we can read all of those. But there is one that I'd like to take up with you and that's one that you actually go on to talk about a little bit more in paragraph 96. That's the use of out—of—date PPE, and you make reference to GMB and your colleague from the GMB will be telling us about that ——

A. Yeah.

Q. —— in some more detail. So far as you were aware, is there and was there a problem with re—marking PPE with —— and covering up dates, essentially expiry dates of PPE? Was that a problem?

A. This is our understanding of the situation. It was reported to us by GMB at the time that this issue had arisen alongside all of the myriad of other issues around PPE that were reported back to us by our various different affiliates. But, yes, that is correct. This was highlighted as an issue and obviously an issue of

extreme concern to the members in that particular service.

Q. I'm mindful of the time, Ms Foyer. Can I move on to your section on risk assessment? Just very briefly on that, you say at paragraph 109 that union workplace representatives were reporting that they were "often left to 'police' workplaces". Again, could you give some context to that, please?

A. Yes. I think that, although lots of work had been done to produce guidance for a range of workplace contexts under Public Health regulations at Scottish level, in many cases there just wasn't the resource within the Health and Safety Executive or environmental health officers, due to cut—backs, for them to go in and police the implementation of this and in many areas it was being left to union reps themselves to make sure that guidance was being followed, being disseminated to workers, and this was a real issue for us.

I also think that the validity of the guidance was diluted somewhat. There was a weakness in the enforceability of a lot of the workplace guidance, with many UK companies simply choosing to ignore the Scottish guidance and go with UK guidance instead. And that's something that we've got some concerns about and I actually think there's a case there for health and

safety and employment law to come under the powers of the Scottish Government ——
Q. Yes —— I'm sorry I wasn't cutting you off.
A. No, that's okay.
Q. You've made that point, yes.
A. So these were real areas of concern for us at the time.
Q. Can I just move on finally to protected characteristics and disproportionate impact?
A. Yes.
Q. You'll be aware that the Inquiry has a remit to consider some of the inequalities of the impacts of the pandemic and the strategic decisions taken, and I think you've very helpfully set out in paragraph 139 certain of the groups who were in receipt of disproportionate impacts. Obviously a large cohort of the social care sector is female.
A. Absolutely.
Q. We can read all that information, Ms Foyer. One point I would like to ask you a little more about, and that is the impact on black and ethnic minority workers. You talk about this in particular at, I think, paragraph 141 of your statement. Can you just perhaps indicate what point you're trying to get across in relation to the impact on black and minority ethnic workers?
A. Yes. I think the context of this paragraph has to be,

you know, heard in the fact that we have concerns about the breakdown and there being enough data at Scottish level around BAME communities and the impacts they were facing, and this is something we called for at the time because we were receiving reports and it was feeling to us anecdotally like, you know, deaths were higher among certain parts of the BAME population and the impact was higher. And we're noting in that paragraph that this was confirmed by the national statistics that were being produced that did show that more BAME workers were contracting COVID.
Q. Yes, thank you. Now, you've set out, finally, Ms Foyer, the lessons to be learned at 149 and following of your statement and your hopes for the Inquiry at 161 and 162. Again, these are matters that we can read and we are very grateful to you. I think —— in our own discussions I think I made the point that there are certain things that we cannot make recommendations in relation to and I think you appreciate that.
A. Indeed.
Q. But, from your perspective, having had the discussion we've had today and having provided the evidence that you have to this Inquiry, is there anything else that you would like at this stage to add and you feel that we may not have covered properly so far?

A. Yes, thank you. I think that too many workers across our health and social care sectors were placed at really high levels of risk and it needs to be understood and investigated by this Inquiry that a lot of those risks could have been avoided if proper planning, PPE and guidance had been in place. You know, as far as we're concerned, our governments, both at UK and Scottish level, really failed on that particular point and that had a devastating impact on the outcome.
You've referred to the data from Professor Phil Taylor and I think it is important to highlight that, you know, workers across health and social care were four times more likely to contract the virus than the average worker, and Equality and Human Rights Commission figures point to a disproportionately high level of deaths amongst social care workers. So, you know, these workers placed themselves in some cases in lethal danger in service to their communities and we feel that action needs to be taken now to make sure that those that are facing long COVID and those that have passed away as a result of their exposure to COVID are receiving meaningful state support. There should be compensation due as a result of death or long COVID and it should be classed as an industrial disease.
And I think social care in particular is an area

that is crying out to be looked further into. It needs to be valued and funded sustainably and all social care workers need to have access to full contractual sick pay, and instead what's happened is they've been largely left to rot. Nothing is changing in social care. In fact some of the things that were put in that improved things for a while have been rolled back on, and that is not good enough for our social care workers in Scotland.
Q. I think the call for social care to be valued more highly is something we've heard from a number of people across the board so we are very conscious of that.
But, Ms Foyer, apart from that, thank you very much indeed for your evidence.
A. Thank you.
MR GALE: Thank you, my Lord.
THE CHAIR: Yes, thank you, Ms Foyer.
Very good. Shall we say 10.50 to resume?
MR GALE: Thank you, my Lord, yes.
(10.34 am)
(A short break)
(10.51 am)
THE CHAIR: Good morning, Ms Bahrami.
MS BAHRAMI: Good morning, my Lord. The next witness is Dave Moxham, who is the deputy general secretary of the STUC. For the record, his statement reference number is

SCI—WT0439—000001.

MR DAVID MOXHAM (called)

THE CHAIR: Very good. Good morning, Mr Moxham.

A. Good morning.

THE CHAIR: When you're ready, Ms Bahrami.

MS BAHRAMI: Thank you, my Lord.

Questions by MS BAHRAMI

MS BAHRAMI: Mr Moxham, please could you tell us how long you've worked at the STUC?

A. I've worked for the STUC for just about exactly 20 years.

Q. How long have you been in your current role?

A. In my current post for 16 of those years.

Q. Thank you. As you know, we've just heard from your colleague who is the general secretary of the STUC. Please would you tell us about the role of the deputy general secretary and how that differs from the role of the general secretary?

A. Yes, so as the title suggests, there is a deputising role so that, in the case that the general secretary is otherwise occupied, I would be expected to be able to undertake the majority of her roles. However, I had defined policy roles within the STUC, including campaigns and communications, where I was responsible for our media output and our general communications with

the outside world. But over those 16 years I've obviously held a wide range of different policy responsibilities, including in the public sector, working with the voluntary and care sector in a policy capacity and really any other policy area that the general secretary would ask me to cover.

Q. Thank you. Given that you were at the STUC for such a long time, can you tell us a bit about the relationship of the STUC with the Scottish Government prior to the pandemic?

A. Yes. I mean, over a long period of years I'd say that we enjoyed a positive, if critical at times, relationship with respective Scottish governments. We had the engagement across a wide range of policy sectors. That would be dependent somewhat on the engagement that our affiliated unions had. So, for instance, in the NHS, where there's well—developed partnership relationships between the unions and the health authorities, maybe less so —— in other areas, such as hospitality, where there's very little trade union presence, we would take a greater role. We would tend to co—ordinate meetings and engagement between unions and the Government where multiple unions were present in order to get the most streamlined and effective way of engaging between the trade union

movement and Government.

Q. Thank you. Would you have regular standing meetings with the Government or were the meetings just ad hoc as the need arose?

A. A range of standing meetings. We would meet twice a year as a set piece with the First Minister and members of his cabinet, depending on subjects to be discussed. There would be an expectation of regular meetings with other cabinet secretaries and policy leads, although they wouldn't be diarised in the same way as the meetings with the First Minister. But across any given year I would expect and still expect to have upwards of 20 meetings with one cabinet secretary or another, which I would characterise as a fairly consistent and deep engagement.

Q. Prior to the pandemic where did the meetings take place?

A. There were a range of venues. Most normally in Edinburgh, quite often in the Scottish Parliament, but quite regularly as well in Scottish Government buildings such as St Andrew's House or Atlantic Quay.

Q. Thank you. Now, when it became clear that the pandemic was going to affect society, before the restrictions were in place, what action did the STUC take to ensure it was best placed to utilise the relationship it had built up with the Government?

A. Somewhat fortuitously we had a pre—arranged meeting, which I think from memory was March 5, with the Economy Cabinet Secretary, Fiona Hyslop, which hadn't been set with the view to beginning discussions on COVID but, by the time the meeting came around, it was a clear issue. So we were able quite early in that meeting to raise the issue, which obviously the Cabinet Secretary was happy to agree to. Thereafter we had reached a very quick understanding that Government and trade union engagement at an accelerated rate would be required. So we were reasonably well placed in terms of contact and early dialogue to begin the process of agreeing a more formal engagement. We then, as you've heard, contacted what I will use as our key affiliates, representing a range of those most affected and those largest, and began the process of bringing them together in order that we could directly agree initial plans for engagement with the Scottish Government.

Q. Thank you. Was that as part of the COVID—19 Group?

A. That was part of the COVID—19 Group, yes.

Q. And I believe initially you also became involved in COSLA, the Convention of Scottish Local Authorities.

A. Yes. So COSLA created quite quickly a workforce issues group, which brought together not just its own officers, officers from SOLAS and a range of unions, again either

what we described as our local government unions at GMB, UNISON and Unite, but also our teaching unions, in order to deal directly, I guess, with local government, and obviously that covered care and education issues too.

Q. Your involvement in COSLA was limited in duration. Did you feel that —— was that a decision based on resources, that you thought resource would be better used elsewhere or did something else affect that?

A. Partly. I mean, I think it was important for us to be engaged in the first instance because obviously we have particular experience, as the STUC, in convening —— if not in the context of COVID, in other contexts —— the coming together of employer organisations and trade union organisations and also simply because it was our business to ensure that that group was operating as effectively as it could be from our perspective.

Within a couple of weeks, I would say, my engagement —— I was always party to the minutes and various correspondence that took place. It was clear to me that our three lead local government unions and the education unions were engaging fairly intensively on that. It didn't mean —— because there were a variety of vehicles through which issues could be raised, that didn't mean that on occasions information wasn't given to me which, through the COVID—19 Group, then found its

way to Government, but on a day—to—day basis the unions were very, in my view, well prepared and well informed and able to take that forward, allowing me, as you suggest, with very scarce STUC resources, to concentrate the majority of my activity elsewhere.

Q. In your early meetings with the Scottish Government, before restrictions were put in place but when it was clear that they were coming, were you able to raise concerns that your members had about what was going to happen and perhaps how prepared organisations were?

A. I would hesitate to —— I think we were able to. I would hesitate to say that we had sufficient information ourselves at that point to anticipate anything like the depth and longevity of the crisis. So I would characterise it as a mutual recognition that we would need to talk and talk again soon rather than the raising of substantive issues. I do recall on 4 March us turning up with hand sanitiser because it had begun to be suggested that measures would need to be put in place, but we weren't at a position at that stage to define what actions there would be; rather, the form of communication and engagement that we foresaw being required going forward.

Q. And I presume the response was quite positive from the Government's side?

A. Yeah, I would characterise it as extremely positive at that stage in terms of engagement.

Q. Thank you. You mention at paragraph 30 that the Fire Service started advising members not to attend large—scale public events and others started to ask about whether they should be issuing messages. How did you deal with that?

A. So in a sense this is an anecdotal example of how we, as a movement, were becoming aware. This pertained to a conference that we were holding in late February and we were aware enough at that stage that things were on the move in terms of potential adaptations and workplace action without obviously having a clear picture of what that would look like. At that conference we were sufficiently concerned to take a decision, which clearly we wouldn't have made now, that that conference could go ahead but we were already looking at the environment of the room and the distance that would be required between participants. We heard at that stage that members of the Fire Brigade Union, who had previously registered to attend the conference, had been instructed that they shouldn't be attending such gatherings. So in a sense that was certainly my first inkling that there was going to be the requirement for a wider public sector health response.

Q. Thank you. Once the lockdown and pandemic restrictions were put in place, what was the immediate impact on the STUC and your ability to carry out your functions?

A. Are you talking internal or organisationally?

Q. Both really.

A. I mean, organisationally we wanted to respond quickly. We vacated our office very quickly. We put in place, I think swiftly, guidance for staff and support in terms of their own working environment or their new working environment. We had to move quite quickly obviously to adapt to the fact that we did need a lot of engagement, both with our affiliates and Government, and obviously we're no longer going to be doing that in person, so we moved to investigate other forms of communication, the ones we now —— Webex, Zoom and others that we now use quite regularly. So we were affected, but I think we moved fairly efficiently or as efficiently as I would have hoped to funding other forms of communication and ways to engage with our members and Government.

Q. You mentioned in your statement that two main areas of focus for you were your role as Government liaison and also the issue of outward communication with members. Can you firstly tell us about your role as Government liaison and how that changed over the course of the pandemic?

A. Yes. So I wasn't -- initially my job description wouldn't have included being the first point of contact with the Government. That would have been my colleague's policy area, a policy officer, but she subsequently left our employment and I moved into that primary role. Having said that, it was all hands on deck and obviously with considerable years of Government engagement and contact with Government, I guess I played a pretty intensive role even before the point when it became my -- for a number of months -- my primary role.
Q. Was the main sort of change really just being online for these communications or was there a difference in the quality, the frequency, the issues you were able to raise, access to individuals?
A. Yeah, I mean there was an exponential growth in the number of issues that we had to raise obviously and therefore the frequency of that engagement. So you've heard about set piece engagements that we undertook twice a week with the Cabinet Secretary, Fiona Hyslop, but almost on a daily basis from the point that that began I would have been in contact with our Fair Work liaison officials, who were our first point of contact -- although even those points of contact grew over the months, but they were our first point of contact. And I would -- barely a day would go by in

those first months where we weren't in daily contact with our liaison contacts.
Q. Can you also please tell us about your role in communicating with members and how that changed with the onset of pandemic restrictions?
A. Yes. So, I mean, we have -- as the STUC, we're not actually a trade union. We are, as you know, a representative of the trade unions. Most of the direct contact with members would normally be channelled through our respective unions, so they obviously are the first point of contact with members and, again, as you've heard, we had a system for elevating those, using standard trade union democracy of members talking to reps, reps talking to officers, officers talking to senior officers and us convening those.

But the STUC also has a somewhat wider role that we adopt for ourselves. Remembering that only 30% of people in Scotland are trade union members, that probably extends to 50% who enjoy trade union coverage, which means to say they might not be members but they are part of a collective bargaining arrangement and therefore are afforded, without paying their dues, the same sort of collective coverage and protections, but that leaves 50% of members who aren't in that situation. Therefore, we've always had a role where, in general

terms, using social media, using other media functions, we've attempted to communicate to workers and for workers some issues where trade unions, for obvious reasons, if not representing them, can't. So at the same time as developing these more, I guess, formal, understandable systems for communicating the views of members, we also wanted to use social media, our website and other functions in order to assist the wider workforce who didn't enjoy trade union protection.
Q. Can you give us some examples of the types of issues that you addressed through social media?
A. Yes. So the very first one which we elevated was in relation to -- not directly relevant, I guess -- to health and social care, the lockdown itself and the move away from work in all but essential workplaces. So we were made aware, through social media, through phone calls and others, of some fairly significant employers in a range of sectors -- but retail would be a good example, hospitality would be another -- who simply hadn't listened to the guidance. So even over that first weekend and throughout the week we were receiving multiple reports, and we were publicising -- where we were clear that breaches were taking place, we were publicising these in order obviously to protect the workers concerned but also to raise consciousness and

awareness of the fact that, you know, this was a serious situation and people had better be listening to the guidance.
Q. Did you hope that, by sharing on social media information about organisations that were listening, that those organisations might take notice and maybe, realising it's being highlighted, take different action?
A. Yes, and, being frank, it's not an unusual tactic or strategy for us to do such things. As I say, where you don't have that direct role of a trade union within a workplace, then you have to find other ways to do your best to ensure compliance and what we describe as "good employer behaviour". So we don't have any compunction, if we think the case is justified, in publicising the fact that one workplace or one particular sector are falling short of expectations and, in our view, that was particularly important in the context of the pandemic when lives were at risk.
Q. Thank you. Did you also raise that issue with the Scottish Government, that despite guidance there seemed to be so many organisations that aren't following that, and, if you did, what was the response?
A. So I think the initial response was positive from the Government in the sense that they valued the fact that we were able to provide that intelligence, whether it's

been gleaned from our unions directly or this kind of wider information role that we were playing. And I feel that in the forthcoming weeks and months, when we talked about the creation of particular Government groups, I mean, areas like construction, manufacturing, retail, hospitality and others, that that was partly a result of the fact that we were able to be a key source of information for the Government that things weren't going right.

There was also, at one point -- I couldn't remember exactly when, but fairly soon into the pandemic -- the creation of a Scottish Government helpline which we were able to direct people towards. So I guess our strategy was to try to do the best we could to deal with individual -- by which I mean single workplace issues, but also collectivise those and present them as strategic issues that the Government needed to address through various mechanisms.

Q. Thank you. Now, in your statement you state that you used meetings with the Scottish Government, at least in part, to have an influence on the First Minister's daily briefings. Can you please expand on that and tell us about the types of issues that you tried to raise and influence?

A. Yes. So, I mean, obviously it would be broad and in

particular, obviously, on a fairly regular basis, the Scottish Government, the First Minister, was announcing particular restrictions on travel, on lockdown itself and then obviously on a range of issues which were advice to the public but also advice to workers and employers as well about what was considered acceptable or non-acceptable in terms of their behaviours.

Now, you know, I can remember on a number of occasions having meetings even in the morning before the First Minister -- not with the First Minister, but before the First Minister made her statement, pushing very clearly on issues such as, I guess, as things went on, how quickly we should move out of lockdown, the balance between commercial and safety interests, where we would then watch with a great deal of interest what the First Minister said and were able in some cases to be very welcoming, feeling that we'd had some effect and in others not so much.

Q. On balance, do you think you were sufficiently listened to?

A. I feel that we were sufficiently listened to. My personal view is that, as the pandemic progressed, as additional pressures were put on the Scottish Government with respect to the economic outcomes, the business outcomes and impacts of the pandemic, that Government

became less easy to convince of what I would broadly categorise as our "safety first approach". So I think as we were accelerating safety measures, we were being listened to fairly well, fairly reasonably. As they were being relaxed, there were times when we felt they were relaxing too fast and too soon.

There were a couple of very specific examples -- again, this is more in the education sector -- around schools and around the opening of universities where we were particularly disappointed and our education affiliates were particularly disappointed that we weren't listened to.

Q. Thank you. You also say that you felt throughout that you could be critical of Government as required without damaging that relationship. Could you expand on that and are you referring to the situations you just mentioned or was it -- did it go beyond those situations?

A. No, it would largely be around those situations. I mean, obviously -- I mean, we were very, very stridently critical in a number of areas, which you've heard, around readiness generally, PPE, and then, as I say, the speed of emergence from lockdown, where, you know, we would be very, very publicly critical and that would get significant media attention. So in a sense

you're looking the next day to see whether the attitude of ministers or their availability has lessened, and I would say in general terms they weren't. They were still open to meeting with us, still open to engaging with us, so, you know, we do feel -- and this is something which goes beyond COVID -- that we have a fairly respectful relationship with Government, where they recognise that we have to be independent and critical even though we work with them when we can.

Q. Do you think that the STUC was always sufficiently resourced to be able to engage with the Government and members and carry out its activities?

A. I mean, no. I would say as a general observation that probably the general public think that the trade union movement has far more employees and far more resources than it really has. The STUC itself has around 30 employees but only 15 of those would be allocated to what we call "core activities"; that's to say activities which aren't externally funded and therefore applied to a particular activity.

Now, I would guess that people think that we have more than 15 core employees, so it's always a struggle, but in this circumstance, when we were the point of contact for Government for almost any workplace issue that they think that workers should be consulted on and

when our need to co—ordinate the activities of our affiliated unions was so enhanced because of the sheer number of issues they were having to deal with, we weren't adequately resourced and possibly, if I had my time again, I might have been clearer with Government earlier that we needed assistance because a lot of assistance was going out to business and other organisations and we, largely speaking —— with a couple of small exceptions of support, we, largely speaking, subsisted and worked on the basis of the resources that we'd had going into the pandemic.

Q. Thank you. We heard from the secretary general that the health and social care sector as a whole was struggling prior to COVID. In your statement you talk about the social care sector being particularly in a difficult position. Could you expand a bit more about that and how prepared it might have —— whether it was clear how prepared it would have been for a national emergency or pandemic and whether those issues were raised with the Government prior to COVID becoming even known about?

A. From the STUC perspective, I can talk with more authority about our work around the terms and conditions of voluntary sectors and social care and private social care workers rather than the readiness of the service itself. In kind of like medical or structural terms,

I'm sure you'll hear from people much closer to that.

My work —— and this started, I guess, in the late 2000s —— was in a specific forum that we created. It was called —— I can't remember its name, but it was a coming together of CCPS, which is Community Care Providers Scotland, various other care—providing or voluntary sector organisations and the unions who were involved in the voluntary sector and social care. We jointly identified at that time not just pay but other terms and conditions, such as pensions, which were sadly poorer in the voluntary and private sectors than it was in the direct sector.

We identified from a very early stage —— and this in a sense was the genesis of the Scottish living wage campaign and then the Scottish living wage as announced by the Scottish Government and its application to social care —— we identified that not just was this an issue of dignity for what was predominantly a women workforce but it was also having impacts in terms of delivery. We were able, jointly with the umbrella body CCPS, to raise this with Government on frequent occasions and to raise this with local authorities. So at that stage there was a reasonable coming together on pay and terms and conditions and the genesis, I think, of an approach which strongly correlated the treatment in terms of

conditions of care workers with the outcomes that were being provided and failing to be delivered sometimes in the care setting.

Q. Was it recognised that this was having an effect on the sector's ability to recruit and retain staff?

A. Absolutely. This was messaging clearly that we were getting from our own affiliated unions, but there wasn't —— you know, there was very, very little difference between us and the social care employers at that stage. There was a difference perhaps in terms of where we might have seen the ultimate resting place of all social care, which, as you know, we believe in direct public provision allied to some not—for—profit care, but in terms of the funding of the sector and the guarantee by Government of minimum wages and terms and conditions within the sector, at that stage there wasn't much difference between us and the umbrella policies for the care providers.

Q. How did the Government respond to those issues being highlighted?

A. Well, you could argue that, certainly in terms of pay, ultimately we got somewhere because they did introduce, after more years than I would have liked them to and after more years on —— about the interpretation of European law, that they would implement the living wage

for social care, which obviously we saw as a victory. We think it took too long and we think it took —— and it is still the case that they do not necessarily align their public statements and what they believe social care workers deserve and the funding that they provide for the sector in order to deliver it.

Q. Beyond pay, do you think there's anything the Scottish Government could have done to try to increase the number of workers in the sector?

A. I mean, pay is obviously the main thing.

Q. Yes.

A. And the general secretary previously talks about some UK decisions which have affected the supply of carers, such as migration policy. To be fair to the Scottish Government, they would love to have that devolved and therefore to meet some of our labour market needs, but, you know, they —— successive governments have overseen a splintering of the care sector between direct, voluntary and private and, you know, despite us arguing consistently and for many, many years that that had to change, it didn't change, and therefore there's an organisational and a structural issue there as well as a simple pay terms and conditions issue which successive governments have failed to address.

Q. Thank you. Now, you told us about interacting through

social media and —— you told us about that and also the COVID—19 with affiliated unions but you also mentioned that non—unionised workers were able to contact you through social media. To what extent were you able to advise or assist them in their particular circumstances through social media?

A. As far as we could whilst, being honest with you, protecting the organisation. So there are certain responsibilities that are implicit in the giving of advice. You can't just run around giving advice and registered trade unions have, you know, clear processes and clear, frankly, insurances and others because, obviously, one can become liable, legally liable, if one gives advice which turns out to be wrong or detrimental.

So the first thing, obviously, was with some care, but there was an undoubted desire, which wasn't just being met by saying, "Scottish Government has issued a new piece of guidance or a particular sector has issued a new bit of guidance. Click on to the Scottish Government or UK Government websites and find out what it says", because frankly these things are hard to interpret. So what we tried to do was to give clear interpretation of what we believed, taking reasonable advice, a particular piece of guidance would mean for workers. We published that interpretation on our

website. And we also, from time to time, on issues like furlough, would —— we would elicit bite—size —— kind of like four tweet pieces of advice, which also included links to wider reference, so that people could find some way of wading through the gulf between what they were experiencing in the workplace and what they were being referred to on Government websites, where there was an awful lot of space for people to navigate between them. So we tried as best we could, with limited resources, to provide that service.

We also managed to link up quite effectively with MSPs, who were obviously getting lots of concerned people contacting them, and our records show that members of the Scottish Parliament and some other councillors found our advice and our short media —— social media tweet bite—size advice quite useful because many of them were referring to it in their own social media and their advice to constituents.

Q. In your statement you also mention you were able to compare and contrast the experiences of non—unionised individuals with those who were unionised. What was the benefit of being able to do that and how did the two compare?

A. I mean, the benefit would be that, you know, notwithstanding the myriad of issues in recognised union

workplaces that you would have heard about and continue to hear about, it is a fact or we would certainly state it as a fact that trade unionised workplaces are generally better protected, better paid, better health and safety, et cetera. So we were able, I guess, to look at practice where trade unions weren't present, compare that to where they were, particularly in sectors which are what we would describe as part—unionised —— and the social care sector would be one of those —— but we were able to compare, for instance, unionised retail with non—unionised retail. And whilst I wouldn't call that a quantitative piece of work, it was very valuable qualitatively, partly because it backed up what our union reps were saying in many cases so that they couldn't be accused of being alarmist or exaggerating the situation but partly because it meant that we were able to advise Government on actions it might take not just based upon the fact of how that might play out where union reps were present.

Q. Were there any key issues that stood out as being very different between the two types of worker?

A. We certainly —— again, it's difficult to be quantitative on this but qualitatively I've already referred to the fact that we were hearing that non—unionised workplaces were in some cases just completely ignoring Government

advice. This would relate to the failure to close. Far more failures to follow normal health and safety protocols. You know, in the best circumstance you will have an active health and safety officer in unionised workplaces, working with appointed health and safety employer representative. We were hearing quite horrific stories with respect to —— in all sectors with respect to the breakdown or the complete absence really of health and safety procedures. Some of that would have predated the pandemic, some of it would have just been inadequate responses to the pandemic. But, yes, there's a very clear difference between having a unionised workplace who understands the protocols and what to do and can at least have disagreements based upon a framework and people who have no framework at all.

You know, it's an employer responsibility under the 1974 Health and Safety Act to ensure that workers are consulted on health and safety issues. Unfortunately, generally speaking, that's a rather large failing amongst Scottish employers, but in the pandemic that became even more concerning.

Q. You speak about differences between NHS and social care staff in your statement. In terms of workplace support, morale and finances, did you see a big difference between NHS staff and social care staff?

A. Yeah, I mean, the first thing I'd say is, whilst we did have significant contact from those working in social care settings where the union wasn't present, we had relatively few from the NHS. Obviously the NHS is a larger workforce. But by proportion, those in social care were significantly more likely to contact us and that, fairly clearly for me, is about organisational structure. The NHS, whilst no one is going to say that it's perfect, has an understandable organisational structure and chain of command and also because of pre-existing partnerships, working relationships, trade union employer, directors on NHS boards, I think -- and I can't find another reason for thinking why this would be the case -- I think that workers in the NHS were much more aware and either -- and able to avail themselves either directly with the employer or through their union for support than was available in the social care sector.

Q. You go on to talk about transport issues, transport to and from work for those in health and social care, and say that you raised these issues with the Scottish Government. What were your concerns and what did you hope the Scottish Government would do about those issues?

A. So transport to work and the impact of transport on

workplace health and safety is a slightly difficult issue. Health and safety essentially, normally, with the exception of particularly some home-working arrangements, stops at the door of the workplace. So we're involved in various campaigns, for instance, with hospitality workers, to say that employers should take cognisance of how their workers get home late, but it's a contested area. Transport work doesn't sit within the normal understood health and safety landscape or the 1974 Act. As I say, we don't think that's right but it's the existing situation.

However, as soon as we got into the COVID situation -- I don't know if I give this example or not in my statement. I can't remember -- a workplace might be a -- a public sector workplace, a key sector workplace, particularly a big one where workers are required to go to work, might be availing themselves in large numbers of public transport. Now, who else is on that public transport, how that public transport is being provided, is going to have a direct impact on potentially workplace transference because, you know, did you get it when you were sitting next to your colleague at work, on your way to work or did you get it when you were having lunch with your colleague at work?

So we felt that -- and we did ask the

Scottish Government -- when we were talking about their transport regulations, we did raise not just the fact that we wanted to protect normal travellers, clearly obviously protect the transport workers themselves, but we wanted them to have some cognisance of particular bottlenecks. So, you know, near where to I live you can tell when the call centre staff are all clocking in for work because the train and the buses are totally full. Now, you can't just open a call centre and not think about the fact that the train that gets people there is going to be incredibly full. So that was our attempt, I guess, to ask the Scottish Government to take the greatest possible cognisance of that particular infection and transference risk.

Q. Now, I want to ask you briefly about long COVID. We heard from the secretary general about that, but I want to ask you specifically about the response of the Government to that. Now, of course, you raised the issue with them. Can you tell us about the initial response and how that evolved over time? Did it get better?

A. I think I would hesitate to be able to put a date on or a timescale on when we first raised it and when we think effective action was taken, but I would say it was reasonably swift. It was included obviously in our

Fair Work COVID statement, which, from memory, was written in April, so we're not talking about too long a period of time. And the principle of in a sense no detriment, the principle that if people were self-isolating or otherwise required not to attend work through COVID should -- in all public sector organisations and all organisations receiving public funding -- should be protected was inserted very quickly. That was obviously then distributed to public sector employers.

I wouldn't say that it was perfect but I certainly think it was a really important tool for our reps in order to negotiate protection for workers who were being forced to isolate and to do other things with that, which the general secretary has referred to in terms of financial support. But I genuinely felt that that was a success for us in terms of the recognition and generally speaking the terms of application.

Towards the end, I would estimate, of 2022 we began to hear noises that local authorities and other employers were less than happy with the provisions within the Fair Work statement and were clearly wishing to move to a situation where long COVID would be treated as any other illness rather than occupational illness or a disability. We tried very hard with Government at

that point to resist the alteration of the statement to take those protections away and we were ultimately unsuccessful, so that would count as one of the significant disappointments, I think, in terms of the way that the Government responded to our entreaties.

Q. Do you think that was due to the requirement to balance business and the economy with workers ——

A. I think we would generally be critical of sickness and absence management policies and the way they've developed over the period. There's been a move towards limited and quantified absence in terms of general illness which we don't think is particularly good for workers, the service or the economy. I think, if someone is sick, they're sick and they shouldn't be penalised for that. Sorry, I've actually lost the drift of the first part of your question there. Sorry.

Q. I asked whether things had improved and whether you thought —— or not improved and whether you thought it was down to business ——

A. Sorry —— yeah, so in this case, if we term "business" as the delivery of public services, then clearly —— and this is a consequence, frankly, of austerity, pressure on budgets. We've seen harder and harder absence management policies being introduced and HR managers who do not want to have people off for significant periods

of time when they're unwell and would either rather manage them out of the workplace or see them have financial detriment. So being frank with you, there was pressure coming on Government from public sector HR not to implement this because they felt it would be difficult for their staff management policies. We would take the opposite view and say, "Don't come to work if you're going to make other people sick or yourself sicker".

Q. Thank you. Can you tell us a bit more about the role that the STUC played in interpreting guidance for workers and assisting workplace health and safety officials?

A. Yes, so obviously workplace health and safety officials' initial and first go—to place is their own union, who operate networks, advance democracy and all the rest of it, but there's also —— for want of a better term, there's a lot of expertise across health and safety officers and people —— there's thousands who do a very good job. There's maybe hundreds for whom it is a bit of a passion, they've become experts very often in their own time and they're not paid directly to do these roles. So we moved to create what we described as a "health and safety community", so that, you know, essentially a community of health and safety officers

across a whole range of industries and a whole group of unions could talk together, and that really is down to the talking —— very often that's about application. So you've got —— and this is I guess what you mean by "interpretation" —— you've got what's written down and then you've got how that actually plays out in the workplace when you're having negotiations with management or conversations with workers. Inevitably there's going to be grey areas, inevitably there's going to be misunderstandings and the need for interpretation.

So we saw our job, you know, advised by this kind of expert group, for want of a better term, to look into what some of those were and therefore to have, if you like, parallel guidance. Whether it was on health and safety or other issues such as furlough, we could say, "Actually this is what it says, but this is what it probably means and this is what you might want to do in this circumstance to deal with this problem". So in a sense it was problem solving between what was written down on the page and how people with expertise were looking to apply that on the ground.

THE CHAIR: Ten minutes, Ms Bahrami.

MS BAHRAMI: Thank you, my Lord.

Did you notice differences between the different types of workplace in terms of willingness to adapt to

the guidance and take your views on board?

A. Undoubtedly. I should maybe have said this before, but we had a range of employers that contacted us, and the very fact that they were contacting us was a pretty good start. So there were undoubtedly employers who were in the vanguard of doing exactly the right thing. That included some small businesses we were contacted by. I wouldn't particularly say employers in the social care sector —— I think they had other places to go —— but there was enormous differences in terms of application, in terms of communication, in terms of willingness, to engage with workers and unions, and we could tell that by the people who actually wanted to know what we said rather than wanting to ignore us.

Q. Now, you speak about people in social care going into work when they suspected they had COVID. Why was that and did you see the same in the NHS?

A. As the STUC —— and I obviously hope the Inquiry can rely also on the evidence of the unions who directly represent the workers —— in the STUC's experience and the information that we got, either from our affiliates or directly from workers, there was a particular issue in social care, and I think that that was largely —— some of it may have been down to the undoubted dedication of health and social care workers, in this

case probably misplaced, but largely speaking it was economic. People simply could not afford not to go into their work and we heard that frequently. You know, it was sometimes really, really quite distressing to have to tell people that our absolute advice was that they shouldn't go into work when we knew that that was causing them, you know, enormous concerns in terms of their income. But the economic issue and the pay issue was absolutely enormous in terms of how people were relating to us their decisions to go into work.

Q. And you mentioned the Social Care Support Fund that had been introduced and the fact that employers had to apply for funds themselves. Did the introduction of that fund alleviate the situation —— the problem in the social care sector?

A. Partially. Again, I haven't got statistics on this, but our sense would be undoubtedly partially. I think if it had been applied more directly with less red tape, I think if it had been clearer which workers qualified and which didn't and if a very —— a much stronger line had been taken with employers who didn't apply it at all, then it would have been better. But, you know, as a concept and in terms of impact it was definitely a very positive thing and something that we worked very hard to achieve. But, as with everything, you've got

the idea and then you've got the implementation and there definitely could have been better systems of implementation and probably wider awareness—raising amongst the social care staff, remembering that a large proportion of them weren't unionised, of what they could expect.

Q. You mention self—employed health and social care workers. Were they able to access that fund or was the impact just ongoing on them?

A. No, I mean, our understanding is that they weren't, so you had to be a direct employee. There were also —— and again I couldn't attest or remember exactly what the ultimate impact of that was —— but there was also a great deal of confusion about part—time workers and how the fund would be applied to part—time workers too, so there were definitely some bumps in the road.

Q. Thank you. Moving on briefly to the lessons you believe should be learned, you state that it's important for joint boards who govern health and social care and the NHS to have local plans as well national plans. What issues did you see arise where this wasn't the case?

A. Well, it's very different to operate either as a health board or a joint board in the Highlands than it would be in Glasgow but also the restrictions were different in different areas at different times so you couldn't have

a single response given that —— obviously all key workers were expected to work in the environment, the geographical environment, in terms of other people travelling, the time it took, car—sharing, availability of public transport. There's a whole range of issues that came up in one area that wouldn't necessarily be coming up in another area if for no other reason than just because of sheer geography and where the infrastructure was and who they had to reach. The extent of home visits in social care in one area would be different and certainly the travel time.

So what I was trying to get across there is, if we're talking about pandemic planning in the future, you have to have —— obviously you have to have NHS—wide/social care—wide planning, and obviously that's why we think much more integration and public ownership of social care is absolutely vital, but that doesn't preclude the need for people also to have local plans which have to be sensitive in the future to particular geographical, demographical and other considerations.

Q. Thank you. Finally you state that:

"There was great confusion during the pandemic between the role of Health and Safety Executive and the role of local authority health and safety regimes. It was complicated further when the HSE were taking top

level UK wide and then Scotland wide positions. The actual inspection regimes are different from that.

"Our position is that the HSE should have a devolved function just pertaining to Scotland. There should be very clear mechanisms for the Scottish Government to take a view across the local authority and inspection regimes about whose responsibility is what and make sure it is very clear to everyone."

What issues arose in relation to the HSE and how would such a devolved function address those issues in your view?

A. Well, the health and safety enforcement regime will, by its nature, always be somewhat complicated, so some of this is reflected in England as well. But even within health and social care you have a different primary enforcement authority depending on whether it's in the local authority or in the private sector, so local authorities inspect private care homes, the HSE inspects local authority care homes, so already there's a difficulty there. But when you add in the fact that the —— and I should say you can reference lots and lots of protocols between the HSE, the Care Inspectorate, the HSE and local authority enforcement officers. There's loads of protocols just to deal with the very busy landscape that already exists. But in the case of the

pandemic, when the Scottish Government is also saying an incredible number of things which are effectively about some form of health and safety regulation, that's one too many persons in the conversation. From our point of view, that ended up both with communication difficulties for the HSE, when were they talking about Scotland, when weren't they, how proactive could they or were they —— in our view, not very much —— in terms of promoting what the Scottish Government was saying rather than what they were saying UK—wide.

This isn't the only reason why we think the Health and Safety Executive should be devolved but it's a very good example of really where there seems no sensible reason in our view, given the size of Scotland, why the HSE wouldn't be devolved. It would still continue, we think, to work with local authority advisers, so also obviously have to adhere to the Health and Safety Act 1974, but it would certainly I think have delivered a far more direct, understandable, clean and clear way to advise both the employers and workers on the best steps to take and to ensure that the Scottish Government's advice, as it affected workplaces, was in the primary position.

Q. Thank you very much. Is there anything that we haven't covered this morning that you would like to address at

this point?

A. I think I've covered everything that I wanted to address. I mean, I would just, you know, underline that the state of the sector before we started, which is a —— it's not just the care sector. It cuts across the public sector, and so—called efficiency savings —— and I'm not against real efficiency savings —— they have the effect of cutting things right back to the minimal bones, so, "How much can I just sort of squeeze out if I reduce two staff here or do this?", all the rest of it. That's not a good thing anyway, but in terms of readiness for a major upset like the pandemic, it just —— you know, it just leaves things in such a difficult situation. And, you know, people talk an awful lot about cutting away the fat and the slack from public services in order to save money. This is what happens when you do that. You're not ready for crises and it could be a much lesser crisis than the one that we had and I would still be saying the same thing.

So my message would be that, you know, we need to stop using trite terminology for making the public sector more sleek and efficient because what that normally means is you don't have the capacity to deal with unforeseen situations, and we saw much of the result of that following the pandemic.

MS BAHRAMI: Great. Thank you very much.

A. Thank you.

THE CHAIR: Yes, thank you, Mr Moxham. 12.05 for the next session.

(11.50 am)

(A short break)

(12.07 pm)

THE CHAIR: Good afternoon, Mr Caskie.

MR CASKIE: Good afternoon, my Lord.

THE CHAIR: When you're ready, Mr Caskie.

MR CASKIE: Thank you, my Lord.

MR JOHN CAIRNEY (called)

Questions by MR CASKIE

MR CASKIE: Would you tell the Inquiry your full name, please?

A. John Cairney.

Q. And I understand that you've provided a witness statement to the Inquiry for its assistance.

A. Yes.

Q. For our records, the witness statement is reference SCI—WT0449—000001. The beginning of the statement is on the screen.

Before you signed the statement, had you read over it?

A. I had, yes.

Q. Is the content true?

A. Yes.

Q. And do you wish to adopt that as part of your evidence to the Inquiry today?

A. Yes. There's only one small change and it's just the fact that HMP Kilmarnock is now in the public service, so that's now 14 establishments rather than 13 I've referenced in the document.

Q. Okay. At paragraph 1 you provide details of your personal background and I understand that you've been a prison officer for a while.

A. Yes, since 7 January 2002.

Q. You also hold an elected position?

A. Yes, I'm elected to Scottish National Committee chair for the Prison Officers' Association Scotland.

Q. And the Prison Officers' Association is effectively the prison officers' trade union; is that correct?

A. Yes, we're the only recognised trade union in the Scottish Prison Service for uniformed officers.

Q. Did you hold that post throughout the period of COVID lockdowns and so on?

A. I didn't, no. I was just on the Scottish National Committee for the beginning and I got elected as we probably came out of lockdown 2.

Q. But you have knowledge of what the situation was during

lockdown?
A. Yes, I was the Scottish National Committee lead through COVID and as it began.
Q. Okay. I'd like to ask you some questions about the scale of the organisation that you are in. How many members do you have?
A. We have about 3,500 approximately in Scotland. We're part of the wider Prison Officers' Association, which is approximately 35,000, but in Scotland about 3,500.
Q. And of the prison officers that there are in Scotland, what percentage approximately are members of the Prison Officers' Association?
A. The calculations are about anywhere between 85% and 90%.
Q. And, as I understand it, you have members who do not work in prisons but work in another particular institution. Can you tell us what that is?
A. Yeah, we have membership in the State Hospital, Carstairs.
Q. But your witness statement doesn't go into that today and therefore I'm not going to discuss that with you beyond what we've just said.
A. Okay.
Q. At paragraph 7 in the witness statement, you say that, "The role of a Scottish prison officer is unique", and then you explain why. Can you just tell us in your own

words why you view it in that way?
A. Well, we're working with people who quite frankly don't want to be there. You know, they're there for crimes that they've committed. Some of them are quite violent individuals, they've got loads of social matters, you know, ongoing —— you know, quite difficult challenges that we have with them. You know, so we're working with people who are quite challenging is probably the best and safest way to put it.
Q. At paragraph 8 in the witness statement you say that, "During this challenging time our [members] still had to deal with the usual daily pressures", and then you provide examples of that.
A. Yeah.
Q. Can you just say a bit more about the situation prior to lockdown, just the general situation of prison officers?
A. Yeah, prior to lockdown, you know, when it was free movement, we were dealing with a lot of assaults; assaults prisoner on prisoner, prisoner on staff. We have quite a high rate of self—harm amongst prisoners, you know, that impact on staff's daily jobs. We've got prison regimes we have to supervise and to make sure that prisoners get their entitlements, you know, and are supported throughout their sentence. It's along those lines.

Q. So you provide, at paragraph 8, a general introduction and then, at paragraph 9, you outline —— you go into this in more detail later —— but you outline the difficulties that COVID brought ——
A. Yeah.
Q. —— for you as an organisation or as a membership organisation. Can you tell me about that?
A. Well, as we know, COVID, when it rolled out, affected people with bad health worse than it would people in good health. A lot of our membership suffered from bad health and underlying ——
Q. You're talking about your membership and not just people in your care?
A. So I focus on the membership here?
Q. You can do either.
A. Yeah, for our membership the challenges we had was that society was telling us to stay away from people. It was telling us to keep a gap —— you know, to keep a distance, 2 metres. That's what we were told. But the reality in the job we were doing was we were very much in close proximity with prisoners. You know, we were actually having to work closer with them than we were being told in society, so it was quite a challenge at the very beginning.
Q. And were there particular features of those in your care

that made the situation difficult for them or more dangerous for them? Did they have a high rate of underlying health problems, prisoners?
A. Yeah. For prisoners, yes, absolutely, there was a high percentage with underlying health problems.
Q. And you say in your statement at paragraph 9:
"Many prisoners are susceptible to contracting diseases due to their immune systems being weakened by certain lifestyle choices, drug use and general bad health."
A. Yeah.
Q. So your position is that prisoners face particular difficulties in addition to your membership?
A. Absolutely, yes.
Q. Okay. We heard evidence on 19 March this year from a Mr Purdie and Mr Purdie is a senior official in SPS.
A. Yes.
Q. He described that, at the time that COVID appeared, a hub was set up, communicating between important organisations and people dealing with the situation in prisons. Were you part of that?
A. I was, yes.
Q. And what was your role?
A. I was representing Prison Officers' Association at that committee or in that hub group.

Q. And Mr Purdie went out of his way to say that at that time in particular there was a strong ethos of collaboration between his organisation, SPS, as employer, and the trade unions. Is that something that you want to comment on?
A. In the Scottish Prison Service we are in what's known as a partnership agreement between trade unions and the SPS management and that was a great example of how partnership working should work. You know, did we agree on everything? No, but we worked our way through it because we had to work our way through that group.
Q. Did you feel that at that group in particular your concerns and your input was being listened to ——
A. Absolutely, yes.
Q. —— and acted upon ——
A. Yes.
Q. —— not always but some of the time?
A. Not all —— we're always going to have different opinions on certain things, but in a whole it was done properly.
Q. At paragraph 12 you talk about local coronavirus response groups. Can you tell us a bit about those —— although we heard from Mr Purdie about those, but if you could tell us.
A. Yeah, what that set—up was —— what the National Coronavirus Group had set down as the thing to do, they

then went to the local groups in order for the local groups to, you know, individualise it to their establishment because each establishment works differently, it's different set—ups. So we gave a national steer and it was then worked out locally how they were actually going to bring it in.
Q. Was that done by individual governors within institutions or was the equivalent of the hub —— the trade union management collaboration group, did that happen in each prison?
A. Yes. It was made up from local management teams, you know, and I assume —— I wasn't —— I'm not privy to the make—up of each group but I'm pretty certain it would have involved NHS partners, social work partners, chaplaincy and so on. But, yeah, certainly our membership were represented by the full—time officials from each establishment.
Q. And at paragraph 13 you also say something about the prisoners, those in your care ——
A. Yeah.
Q. —— and the extent to which they cooperated. Do you want to say something about that?
A. Yeah, I think it's important that it does get mentioned, you know. As my statement earlier on, when I was saying that a lot of the people we're dealing with don't want

to be there and, you know, are quite challenging individuals, but they complied fully, and I think it's testament to probably seeing it live and it playing out live on, you know, national news outlets, hearing it from their families, et cetera. You know, they were very compliant going in.
Q. Okay. Now, the next section in your witness statement is PPE but I want to jump forward to something else in your witness statement and then I'll come back to PPE. Can I take you forward to paragraphs 39 and 40 in the witness statement and, if we just wait, that will appear in a second. You have a heading there, "Death of Fellow Prison Officer". Now, it's important that I say to you at this stage we don't want that individual identified ——
A. Yes.
Q. —— but can you tell us about that?
A. Yeah. It was —— as you can see from the statement, I've put it was in Polmont —— you know, Young Offenders' Institution in Polmont. It was near the beginning and it had quite a profound effect impact on our membership because the fellow was a popular individual. It actually affected the prisoners as well or the young offenders and prisoners as well because they knew him and he was quite popular. I think it became real

because it actually happened to someone that people knew, you know.
Q. Was he quite widely known within the whole of the prison community?
A. Yes, yes. Also —— with his unfortunate and sad death, we also had another two at another establishment who had died through COVID as well, which had an impact on their community, within ——
Q. Were they prison officers or were they prisoners?
A. No, they were staff.
Q. Staff?
A. Yeah, they were prison staff.
Q. Tell me about the effect of those three deaths on the prison officer community at the outset of the pandemic.
A. It was very difficult. It was hard to take and it was hard to, you know, think of the impact of it because they were colleagues, and it's like the death of any colleague, you know, it affects —— it does affect us. When it's attached to the COVID outbreak, you know, as I say, it became kind of real that, "This isnae going to escape anybody, so kind of buckle down and listen to the guidance and work through the guidance", you know, because it affected, you know, the communities within prisons but it affected the wider Prison Service as well.

Q. The impression that I get from your evidence is that it really sobered people up, if I can put it that way ——
A. Yeah, absolutely.
Q. —— and people were then taking it even more seriously?
A. Yeah. As I say, it became real because it happened effectively, if you want to call, on your doorstep, but it happened and it happened, you know —— so, when you know these people and you know people are affected by these people, it just refocuses, you know, your mind of, "No, this is real. This is a real thing that's happening, so, you know, we have to follow all the guidance that we possibly can".
Q. We heard evidence from Mr Purdie that he was given information from a projection that perhaps as many as 600 prisoners might die. Was that information shared with you?
A. Yes, it was probably one of the very first NCRG, National Coronavirus Response Group —— NCRG —— it was probably one of those first ones that —— that's when these kind of predictions were coming out. Yeah, it's no a number that I probably would have even contemplated, you know with, kind of —— but yeah.
Q. Mr Purdie described it in his evidence to the Inquiry, the figure, as "overwhelming". Was that a view that you shared?

A. It was a high number —— you know, it was a gobsmack number, you know, that that's what the prediction was. Yeah, of course it takes you back because it's human life. It doesn't matter —— I know it was a thing towards prisoners and I'm obviously here for the prison officers, but, yeah, absolutely, and that would then have fed back down to our membership as well, who themselves would have been concerned with it, you know, because it's —— having one death is difficult to deal with. If you can multiply it by those numbers, you know, it would have been real difficult for our membership to have handled that kind of rate.
Q. Okay. I'm now going back to where we were, which is paragraph 14, and you're talking there about PPE. What you talk about there is —— reading that and the subsequent paragraph —— that the availability of PPE changed over the course of the pandemic. Will you tell us about that, particularly to begin with the initial stage. What PPE was available to you?
A. The initial stage was —— it was strange, I mean, because there was no clear guidance on it. And I've sat in the NCRG groups at the very beginning where we were actually looking at five and six different face masks —— you know, we didnae know what kind of ones we were getting. In my statement, but I kind of took it out —— I refined

it —— I called one of the masks a "Bane—style mask" from Batman, the fellow with the mask at the front, and that was the kind of stuff we were looking at —— you know, "Is this what we're going to have to wear?", because we didn't know what we were having to wear, and the guidance we were getting at the beginning from Health Protection Scotland and NHS inform, et cetera, was, "You won't need masks". So when you're holding these ones, to have been told that ——
Q. You don't need them.
A. —— you don't need them, it was —— that impacted me as much as Mr Purdie saying about the 600 deaths because I'm going, "How can you have that figure but not giving that protection?". It made no sense, so it was difficult and it was challenging at the start.
Q. What type of masks did you ultimately in general end up wearing?
A. We ended up with type 3 —— is it IR type 3? It was kind of —— the surgical mask, you know, would be what we ended up with.
Q. And how long did it take you to get those?
A. I don't know the exact timeframe, so apologies for that, but it was way after we were walking about Tesco and Asda with them on —— you know, it was way after that because the guidance we were getting is, "If you can

keep 2 metres apart, you don't have to wear them in your environment", which was something that got challenged right from the very beginning —— not just from trade unions, from SPS management as well. In fairness, it was not just us. It was the whole collective that was challenging that.
Q. At paragraph 15 you talk about particular functions of your job which mean that you need to come into close contact ——
A. Yeah.
Q. —— with others. Can you just explain that to us?
A. Well, as I started off as well, we've got, you know, prisoners in the prison that are there for varying reasons. Some people's anxieties are different, some people's anger is different. So there was times when our membership were having to go in and perform control and restraint, to try and take prisoners back under some form of control and some kind of order. You know, so we are being, "Told stay away 2 metres, wear a mask, walk one way in a supermarket" to "You don't need a mask and you're going to have to restrain a prisoner who, you know, is having discipline issues", shall we say? So it was just —— it was so unreal, what we were actually being asked to carry out.
Q. You spoke about guidance earlier. Certainly during the

initial stages was there specific guidance for what should happen in prisons?
A. No.
Q. What guidance were you relying on? Was it guidance for another sector?
A. Going in, we were more aligned to the care sector, so we were —— you know, be like care homes, you know, have that —— but even then care homes went beyond us because their staff were then given masks earlier than, again, our members and staff in a home were given. So although we were aligned to them, you know, we were then quickly overstepped by ——
Q. And when you were eventually given masks, were you given training on how to use them?
A. Yes, the difference between a face covering and a face mask was a new learning package. You had to do —— I can't remember how long it was. I want to say it was as quick as three minutes but I might be wrong. And it's how to properly put it on, how to properly take it off and how to, you know, manage it whilst it's on. So that's what took us from a face covering to a face mask.
Q. You talk at paragraph 16 about some prisoners being supplied with masks.
A. Yeah.
Q. I don't need to ask you which prisoners got them but

did they get the e—learning in terms of how to wear them?
A. No.
Q. Okay. At 17 you're talking about social distancing and you say there was a particular problem with older—type prisons.
A. Yes.
Q. Can you tell us about that, although we heard about that from Mr Purdie also.
A. Yeah, if you think of the lay—up of a modern [sic] prison, the gallery is probably no wider than this table, and the guidance we've been given is 2 metres' social distancing, you know, so it was actually impossible for our members to have that space, that safe space, that Government and professionals were telling us to have. Every minute of every shift we were in that space and —— you know, so there was a fundamental difference, and you take it into a more modern place, for instance, Low Moss, where the gallery is probably the length of the room, you know, so there was opportunity to have the social distancing, the 2 metres' guidance within that area. So there was certainly an issue for the Victorian—style prisons.
Q. Now, we heard quite a lot of evidence —— and I don't need you to repeat it —— about bubbles in prisons, about

prisoners being grouped together into bubbles. Were prison officers also attached to particular bubbles?
A. I don't know. I can't recall, if I'm —— I would think by actually the way our attendance partners work, then you would be, you know, because generally you work in the same place with the same prisoner group so by default you maybe have been. But I don't remember —— I don't recall it actually being described as "You work in this bubble".
Q. At 17 and 18 you go back to what you were talking about a moment ago about the difficulties of social distancing in Victorian prisons ——
A. Yeah.
Q. —— and you talk about some staff being frustrated as a result of that.
A. Yes.
Q. Can you tell us about that?
A. Yeah. As I say, we're watching —— you know, we're watching updates every night that's reinforcing us to do —— you know, live our life in a certain way. You have to stay in, that's not optional, you have to do that, you have to stay away, and then we were coming into our work and it was just —— it didn't exist —— you know, that protection didn't exist. And what we were —— everything that we were told was, "They're trying to

mirror the community and do stuff in the community, you know, what they're saying there", and quite frankly it wasn't happening. You know, again, that's the fault of design. It's not the fault of an individual. It's the fault of design, that it wasnae allowed for our members that worked in these type of prisons.
Q. You move on to talk about shielding and you indicate that, once shielding letters were issued to your members, then SPS would basically relieve them from duties temporarily, but you also say there was a six—week window ——
A. Yeah.
Q. —— before that happened.
A. Yeah, I think it's again —— probably as society was, it took a bit of time for, you know, NHS to actually get that completed —— that piece of work completed. So our members were working in the area, you know, or being forced to go and report sick because they just didn't want to put themselves in that position of coming in. You know, so they either took the decision of going sick themselves or coming in and trying to find a non—prisoner—facing role that would have maybe given you a wee bit more —— a less exposure.
Q. And how were SPS in terms of arranging those kind of roles before the shielding letters arrived?

A. If I'm being honest, that would have probably been dealt with more at a local level. I wouldn't have really had sight of that, you know, at the national group. That's something I would expect our local branch committees to have done so I don't have any kind of feedback as to was it successful or was it not.
Q. Do you know if there was any positive action by SPS in terms of seeking to identify staff members who might require additional protection prior to the shielding letters?
A. If I'm being brutally honest, I think it was more reactive. You know, I think it was more a member of staff going to them, you know, to say, "Here's what I have" or "Here's what it is", but, as I say, we were quite chaotic at the beginning, you know, so I would imagine everything was done quite quickly or -- you know, the initial support and care that was needed to go in to the individual case.
Q. What about individuals who didn't have health problems but who had family members who would require to shield? How would that be dealt with?
A. That was a bigger problem, you know, when the shielding letters -- even when the shielding letters went in because the SPS were of the mind that, "Unless you have the shielding letter, then our expectation for you is to

come to your work", because, you know, the letter by default didn't extend to them. So that's probably where more trade union interaction was needed with the employer, to try and actually explain to them that -- an example being we had someone's wife who was going through intrusive cancer treatment and had an open wound and had a shielding letter to say they can't go, but the expectation was that that member of staff would work. What we were trying to explain to the employer was it's impossible -- it's unreasonable to ask that person to come to work because they're taking home or potentially taking home something that could directly impact their wife, you know, so that was quite a challenge.
Q. And you spoke earlier about what might be regarded as generally poor health amongst the prisoner community.
A. Yeah.
Q. Do you know anything about increased vulnerability to infection by COVID amongst the prisoner community? I mean in the sense that, if they're more likely to get COVID, then your member with the wife who requires to shield is more likely to be exposed to the virus. Can you say a bit about that?
A. I don't really have much to say on that because I don't really have the evidence that would support anything that I could probably add to it, so apologies for that.

Q. Okay. The next thing I want to ask you about is what you've headed "Health and Safety Impacts" but in reality most of the statement relates to control and restraint training.
A. Yeah.
Q. Tell us about that.
A. Well, what happens is we all get initial training for control and restraint and then every year we have to do an annual refresher, you know, to keep us ticking. So, because of the restrictions that were in place, the decision was taken that SPS will extend people's competency from a one-year window to a two-year window.
Q. Right. Now, you said you get the refresher training -- "to keep us ticking" is the phrase that you used.
A. Yeah.
Q. Were there other reasons -- were there legal reasons for the frequency of the refresher training?
A. It's set up in the training parameters that every year you have to go through an annual refresher, so it's there and the SPS audited against -- you know, it's part of the key performance indicators, so as in, "You will make sure that you have this percentage of staff trained in control and restraint every year".
Q. During COVID that was extended rather than annually to become biannually?

A. Yes.
Q. You also refer to the possibility of it becoming every three years.
A. Yeah.
Q. What was the reaction to that?
A. That didn't land -- it didn't land well with anyone, quite honestly, you know, because first of all our membership -- we identified or quite quickly seen that we need to keep the refresher going, we need to keep training people and keep the refresher going, and the SPS were no willing to extend it to three years because they had a corporate risk, I believe, that they would have been concerned about as well.
Q. In terms of this annual refresher training which became for a period biannual, has it now gone back to annual?
A. Yes. Yeah.
Q. Is that seen as a tick-box exercise or is it actually something that the staff want to partake in, that they think it's important?
A. No, it's absolutely important. It's a massive part of our job and it's a massive part of our role, so it's far from tick-box. You know, it's something that our membership know they require to have, you know, in order that they do their job properly if and when, you know, it becomes volatile.

Q. Tell me about —— I'll come back to in lockdown, but coming out of lockdown there obviously was a backlog ——
A. Yeah.
Q. —— of training needs for control and restraint. How was that dealt with?
A. What had happened was, because we went on to a COVID roster, a COVID attendance pattern, it means we had more staff, so as we were coming out and the shielding letters stopped —— so we actually had a bigger bank of staff. So rather than going back to the traditional attendance pattern straightaway, they utilised that core of staff to actually get as many people back through the training that we could and then, once we had up to I think it's 85% —— I could be wrong but it's about 85% —— that's when we then went back to traditional attendance patterns. So we managed to catch the training in for our members in that period.
Q. You spoke about the change in work pattern and we heard evidence from Mr Purdie that it became 8.00 in the morning to 6.00 at night. You spoke about, "We've got more staff". Did you actually get more staff or was it simply the change of working patterns meant that there was more staff available?
A. It was a change in working patterns.
Q. Was there an increase in the number of staff during

COVID?
A. No.
Q. Was there a reduction in overall staffing levels?
A. Not more than pre— or post—COVID time.
Q. You say at paragraph 30 that there was a mixed response from your members about the change in working patterns.
A. Yeah.
Q. Some people wanted to go back to the old patterns and some people wanted to stay. Can you tell me what the arguments on each side were?
A. Well, we have staff who like to finish on an early shift at an early shift time. You know, it's just the way it's always kind of been in the SPS. A lot of staff are used to it, they've built their life on it, you know, they've got childcare arrangements around about it, so they see that as their attendance pattern.

You know, it's no too damning because, if you go in at 6 o'clock in the morning or 8 o'clock in the morning, whatever time, and you're working right way through to the end of shift, you don't have a break, you don't have an out. So if you've got a prisoner that's railing up at 8.00 in the morning, you've got him till 6 o'clock at night, whereas if you're on an attendance pattern, you know, that —— you're either coming in back shift or you're finishing an early shift, there's that natural,

you know, break for you, whereas if you're in it all day, you know, you're there.

But the flip side of it is by people working —— some folk enjoyed it because, by working a longer day, they worked less days. You know, our attendance patterns, up until December coming, is 37 hours a week, so that's —— the expectation is 37 hours a week, so a lot of folk are saying, "If we can get that in quicker, I get more time in the house". But, as I say, for a lot of folk it doesn't suit them. They prefer the early shift/back shift attendance patterns.
Q. I understand that in the prison officer community overtime is referred to as "ex gratia payments".
A. Yeah.
Q. What was the impact on overtime?
A. Effectively it disappeared. You know, there wasnae —— I don't have the figures as to how much money the SPS saved, but if I was to hazard a guess ——
Q. The SPS ...?
A. How much they would have saved by paying ex gratia. If I was to hazard a guess, I would say it was —— multi—millions is what they would have saved. So the reality of it is we've got people who rely on doing ex gratia shifts for their own lifestyle, you know, so, when that came to an end, there was folk losing out on,

you know, quite a bit of money per month because it wasn't there.
Q. Were management slow, in your view, in reverting to the traditional work pattern because obviously they were saving money?
A. I don't think they would have used the excuse of or the reason of saving money. I think it was more —— we had disagreements over it —— let's be frank, we had disagreements over it, but the SPS had said that they don't believe we were in a position to exit the attendance patterns any sooner because they wanted to get the role training back up and running. They wanted to make sure that there wasn't going to be a third or a fourth lockdown, you know, that they were trying to come out at before they came in. We were quite honest with them, that we wanted to come out a lot sooner. Our membership were telling us they wanted out a lot sooner. So it was quite a challenge, you know, to actually get out of it.

But I don't think there was ever a motive to keep us there because a commitment was given at the start that this was only going to be a short—term change. Short term ended up being about two years, but we all thought we were going to be in the house for four weeks.
Q. You talk about the National COVID Recovery Group and

I've asked you a fair bit about that already. I just want to clarify the frequency with which that met at the beginning of the pandemic.
A. Every day.
Q. And you were part of that group?
A. Yeah.
Q. Were all of the main senior managers in SPS overall also involved in that group?
A. As senior as it got would have been Mr Purdie, who chaired it. He would then have went to an exec management group, being the chief executive, and that kind of strategic board level is where he would have taken the NCRG findings and recommendations up to that level. But as senior as it got was Mr Purdie and his kind of equivalent colleagues, which is as senior as, you know, you're probably going to get. They're directors within the organisation.
Q. Those were the people you were working with within that group?
A. Yes.
Q. Okay.
The next part of your witness statement relates to financial impacts ——
A. Yes.
Q. —— and we've already spoken about the impact on

ex gratia payments, overtime payments. But you also say that there was a quite significant impact on your membership as a result of not car—sharing.
A. Yeah.
Q. Can you tell us about that?
A. Yeah. Again, our members had to follow the guidance that was out there, and the guidance that was there was you had to travel alone, you know, and —— so we generally have what we call "car pools" within our attendance patterns, so it's not uncommon to have five people sharing a car and they all drive one day each, you know, and —— work it out. Taking it to even four or three, it cuts quite the distance you're travelling yourself and the cost to yourself down quite dramatically.
When we then went into the guidance, saying, "You can't be in a car with anybody else", it had a financial impact —— you know, quite a severe financial ... because we had people, for instance, coming from Kilmarnock to Barlinnie to work. I mean, it's an 80—mile round trip, so doing that and paying for that every day yourself, as opposed to in your car pool, had a detrimental effect on our members.
Q. And presumably management know about that because they had staff's address?

A. Yeah, and again, if I'm being fair to them, all they were doing is they were just passing on the guidance that was laid down, you know, via the NCR group by, as I say, Health Protection Scotland, NHS Reform, the Scottish Government. All we were doing was just following the guidance and guidelines that were set by them.
Q. As a membership organisation, what can you tell us about the impact of long COVID on your members?
A. Again, because I'm on the national executive, it's not really something that I witness on a day to day. That would probably be more —— our local branch committees would be in a position to have better information. But I do know there is members suffering from long COVID, I do know of members that have had to leave the job under ill health capabilities because of long COVID, you know, so there is an impact that's been felt from our membership with regards to long COVID. I don't have any, you know, figures as to how many are suffering from it.
Q. Towards the end of your witness statement, although some of them are quite lengthy, there are effectively bullet points of things that you identified as problems. I wonder if I could go through them just as bullet points and ask you to expand on each one.

A. Okay.
Q. Firstly, childcare impacts, which people won't be surprised to hear me saying, but can you explain childcare impacts?
A. Yeah, that kind of goes back to the attendance patterns because it's not unknown to see prison officers handing kids over in car parks. I don't mean that literally. I mean one comes off—shift and goes away with a kid and the other one comes on—shift, and that disappeared because they were all in a one ——
Q. Everybody was working the same shift.
A. You weren't allowed anyone in your house. It was as simple as that. You could leave your house for an hour's exercise. So you couldn't rely on parents or, you know, siblings coming to help out for childcare, so that was real. You know, a lot of our —— again, a lot of officers have got partners who were also classed as key workers, who had to go and work, you know, in different sectors. So it had an absolute huge impact, the childcare, on our members, you know, for the period that you weren't allowed anybody to help out.
Q. Okay. Impact on induction for new staff of COVID.
A. Yeah.
Q. Tell me about the impact.
A. It was alien. You know, when you come into the

organisation, you kind of do everything in teams, I don't mean Teams virtually. I mean, you know, as a collective in teams. You know, you do that, you work together, you're working as a section within our college. To actually go and then be told to separate out, it was quite alien to them. It was quite difficult and quite challenging, you know, for folk to build up the relationship, the rapport with each other, because it didnae exist.

Q. Now, we saw, in Mr Purdie's explanation about his work history, that he spent quite a long time acting up into promoted posts and I understand that's a common thing within the Prison Service; is that correct?

A. It is common but getting a lot better. They're filling a lot of roles now substantively, which is good.

Q. And during COVID lockdowns, was there a problem with people being stuck acting up?

A. Not that was highlighted to me. You know, it's never an issue that came to myself, you know, with it, but business kind of moved differently in those times so I don't really know the best way to answer it. But it was never a huge issue that came across my desk certainly.

Q. Is there a distinction to be drawn in terms of impacts —— I'm looking now at paragraph 48 —— between

operational staff such as your members and others who work at prisons?

A. Yeah, this is arguably the single biggest legacy issue that we have from COVID in here because our members can't work from home. It's impossible. You can't take 20 prisoners home with you. You know, you can't do it. But our non—operational colleagues, you know, have got that opportunity to work from home, you know, and they actually do. They downscaled our headquarters, for instance, because there was no need because everyone is now remote with remote access and working, you know, from home, where, as I say, 100% of the time our members are in establishments working, you know, with ——

Q. Has that created a degree of difference within the organisation?

A. It's created a difference for us as a trade union in how we're looking to be identified by the employer, you know, because it's quite clear that the roles are different —— our pay scales are the same but our roles are extremely different, you know, in what we do. As a trade union, we are pushing for the employer to recognise that.

Q. During COVID, what was the impact on the association itself? How, for example, did the workload of elected officials alter during that period?

A. What had happened was our local officials were fine because they were in and they were doing their job all locally. At national level, as I say, I was sat on a coronavirus response group but a lot of my colleagues on the Scottish National Committee started to go into —— back working in prisons to help out. But it actually had a detrimental effect on us as a trade union because I'm coming out of COVID meetings and I'm needing a table steer for where we're going to go and how we're going to position ourselves with a change and, when they were working in establishments, trying to help out, it was kind of falling down. So we quite quickly had to say, "No, we need youse back out because we need to run the executive, you know, and making decisions at that level to impact everyone rather than one or two people going in to help out".

Q. Now, a recurrent theme in the statement that you've provided —— I'm not going to take you to a particular paragraph, but a recurrent theme is that prison officers are not recognised or were not recognised as key workers.

A. Yeah.

Q. Can you say something about that?

A. Yeah, that's the reality of what it is. You know, our membership arenae classified as emergency workers and

it's quite shocking that that's the case, quite frankly, because the nature of the job we do. As I say, people lost their lives, but low—level stuff for us was we're watching nurses and police officers, firefighters, going into supermarkets early and, you know, being able to jump queues. Our membership, for me, are that same mould. They're emergency workers, that's what we do. You know, we're front—line staff dealing, you know, with what we deal with. But that was never extended to us. It was quite a bad taste again for our membership because —— not only in this but in pension fights and everything, there's just not that recognition of what we actually are.

Q. What was the issue about pensions?

A. We're going through a campaign now to reduce our pension age back to 60. Our pension age is now 68 so they're expecting operational prison officers to work to 68, whereas the ringfence of police, fire brigade, the army and all that, left us out. So we're trying to right that wrong. It goes as far back as 2011.

Q. Okay. Now, I haven't asked, because I don't need to ask, about the vaccination programme for prisoners.

A. Yeah.

Q. What we were told in essence is that prisoners were dealt with in the same way that the general public were

dealt with so that those 80—plus were the first group assessed.

We've also seen evidence that prison officers are in a high risk environment. Was there any concession in terms of prioritising vaccinations for prison officers who wanted it?

A. No. Short answer: no, but a content to it is, as an NCRG, we did go and we did take it to, again, Health Protection Scotland, Scottish Government, NHS inform, because we were of the opinion that we actually should be. I think we were maybe five times more likely to contract COVID because of the environment we worked in, bearing in mind that's five times more likely to actually pass it on as well.

So the decision to exclude us was one that —— it made no sense but we had to go through the vaccine programme the same as everyone else did ——

Q. So you weren't given any prioritisation ——

A. No.

Q. —— because of your increased risk?

A. No.

Q. Can I ask you one more thing about the guidance? You obviously saw lots of guidance and you said to us that that was not specifically directed at people in prison. How did you feel about not being given specific guidance

for the environment you were in?

A. Frankly, it was madness. I mean, how they could expect us to operate from guidance that wasn't specific to the environment that we worked was —— it made no sense. It was a massive source of frustration to us that —— again it's, "Are we forgotten here? Do you no know prisons exist?" Therefore, "Just let them deal with that guidance". Our members were, and all staff, were living this really concerning, really difficult and challenging and worrying time and it's as though we were forgotten. "Just give them that guidance and let them tie to that". It's impossible. You know, how we came through that and how the organisation came through that in a state that wasnae worse than what it was is absolute —— a huge credit to everybody involved.

Q. At paragraphs 54 and 55 of your witness statement, you describe your hopes for this Inquiry. Could you read those paragraphs for us, please?

A. "Genuine recognition that our members worked in a complex, challenging and dangerous environment and [we] were truly on the front line at great personal risk; and that they were flexible, adaptable and entirely committed to getting everyone through ... the most difficult times in recent history [and]

"Genuine recognition for our members as emergency

workers."

Q. And those are your organisation's hopes for this Inquiry?

A. Absolutely.

Q. Thank you. Those are all the questions I have for you. Is there anything important that you think we haven't covered that you want to say?

A. No, everything's covered for me. Thank you.

MR CASKIE: I'm very grateful.

THE CHAIR: Thank you very much. Thank you, Mr Cairney.

MR CASKIE: Thank you, my Lord.

A. Thanks, my Lord.

THE CHAIR: 2 o'clock for the next session.

(1.00 pm)

(The short adjournment)

(2.00 pm)

THE CHAIR: Good afternoon, Mr Gale.

MR GALE: Yes, good afternoon, my Lord. The next witness, indeed the final witness today is Paul Arkison.

MR PAUL ARKISON (called)

THE CHAIR: Good afternoon, Mr Arkison.

A. Good afternoon.

Questions by MR GALE

MR GALE: Mr Arkison, your full name, please?

A. Paul Stuart Arkison.

Q. You have provided the Inquiry with a statement, the reference to it is SCI—WT0435—000001, and you are giving evidence on behalf of your union, the GMB.

A. Indeed, yes.

Q. You've also provided us with a number of letters, principally letters that have passed between your union and in particular from your regional secretary, Gary Smith, or yourself and were addressed to ministers, either the First Minister and/or the Cabinet Secretary for Health, together with some letters which were sent out to your members and some which passed between MSPs. You've put those letters at the end of your statement and we're very grateful for those. Those will all be taken account of as we're progressing on.

You're agreeable I think to your statement being published and also the evidence that you give today being recorded?

A. I am.

Q. Thank you. Can I also say at the start that there are certain parts of your evidence —— certain parts of your statement, rather —— particularly those which relate to economic hardship encountered by your members, that have been passed to my colleagues in the Inquiry who are looking specifically at issues relating to welfare, so you will no doubt be hearing from them —— if you haven't

already, you will be hearing from them.

You've provided an overview of the union, the GMB. You are a senior organiser with the union and that's a role that you've occupied for the past five years, but you've worked for the union for around 16 years in total?

A. Correct.

Q. You explain in paragraph 3 that you head up the union's organising team. Can you explain what that does and how it operates?

A. Yes, certainly. As you rightly say, I'm the senior organiser with GMB Scotland and the team that I head up is classed as our organising team. We would have areas of responsibility that we would be working on. We would also look at driving issues that would bring in new members, dealing with those. We are usually the first points of contact when people would come to the trade union and we would act on them appropriately and represent our members in the best way possible.

Q. Who reports to you?

A. As in who would be in my team?

Q. Yes.

A. It would be a mixture of organisers, who would have responsibility for dealing with employers, assistant organisers as well, and I also work with support staff,

clerical and admin staff.

Q. Thank you. I think it's important to note that the GMB, as the name suggests, is a general union.

A. Yes.

Q. As you explain in paragraph 8, you represent workers in a number of different sectors.

A. Yes.

Q. You have 60,000 members across all sectors in Scotland and, as you tell us, the main areas are in local government services, the private care sector and the NHS; is that right?

A. Yes.

Q. You make the point that in local government in care sectors your members are predominantly female ——

A. Yes, I would agree, yes.

Q. —— and in manufacturing predominantly male.

A. Yes.

Q. You point out at paragraph 20 of your statement that your main involvement was in relation to the care sector and at paragraph 21 you indicate that the relationship that your union had with certain employers in the care sector was not of the best, is probably one way of putting it.

A. Yes, I would agree.

Q. Can you explain why that was?

A. A lot of the private sector employers in care, we wouldn't have what we would class as formal recognition agreements, so essentially bringing issues that would be of concern to ourselves and our members. Where there was recognition agreements, there were particular elements you would go through, where you could raise things at a reasonably low level and work your way through whatever procedures were in place.

When that wasn't in place with companies where we had a significant footprint of members, the first port of call would have to be at whatever level we could find within the company and sometimes I think employers would see that as slightly confrontational. They would maybe suggest that this is the first time they've been made aware of these concerns and possibly that there wouldn't be any internal procedures therefore as to escalate matters through. So in times it could be seen as quite adversarial and quite confrontational —— I would assume employers would look upon it like that.

Q. You do say in paragraph 21 that, as a result, there was a huge amount of mistrust and anger towards these employers from your members. How did that come about?

A. Members would probably —— would contact us initially with certain examples of what was going on in their workplaces and of course our first reaction would be to

look after them, try and provide support and advice. Sometimes that support would actually be contacting the employers direct if our members didn't feel that they had the means to do so or were reluctant to do so.

So we ourselves would be contacting employers and employers would maybe see —— if they didn't have any sort of prior relationship with us, they would see that possibly as someone external coming in to interfere with their affairs. And I think —— from that point of view, I think that's when concerns would start to build up and we didn't —— in some cases we didn't have the best relationship with employers at that particular time.

Q. Was that across the board or was that in relation to certain employers?

A. No, I would definitely say certain employers. I think there is a difference where we can have —— I wouldn't say it always works out well, but when there's certain procedures in place and we can see —— and both sides can recognise then where to bring up certain things, and if issues can be resolved at a lower level and usually quickly, that would be the way that we would want to do our business. But if we didn't have that in place, with relatively large organisations, then it would take time and we would have to raise those issues quite directly with the employer.

Q. Thank you. You do tell us that, on 20 March 2020, your union wrote to all private care companies where you had members seeking a national strategy to guide the whole care workforce through COVID-19. Now, that was obviously very early in the pandemic and obviously very early after -- well, indeed before the first lockdown. What was it that instigated you to do that?
A. I think certainly in the private care sector our membership is wide and varied so it would cut across organisations where -- going back to what I said earlier, where we would have formal recognition agreements in place and other areas where we don't. I think we were picking up at that particular time from our members that there was going to be, in certain areas where we didn't have that recognition -- and we also knew that -- prior to the lockdown, I have to say we believed that the private care sector was already in a crisis, with low staff and a reasonably high turnover of staff at that particular time prior to the lockdown happening, so our concern was that, as things were starting to build up, things would only get worse. I think that would be the reason behind it.
Q. Were you envisaging difficult times ahead based perhaps on what you had seen emanating from Spain and Italy?
A. I think it probably would have -- I think, to be fair,

it would have had a bearing on it, yes.
Q. Throughout the pandemic, you as a union carried out a number of surveys and throughout your statement you've made reference to these and provided information from them. In the context of the pandemic, why did you feel it necessary to carry out these surveys?
A. A lot of the time in a lot of our work -- we're very much member-focused and member-led, so a lot of our work would be actually going to see our members in their place of work, experience what they were doing and getting a feel for what the mood of our membership would be like at that particular time. So prior to the -- we would survey our members, you know, regularly anyway, but when the lockdown came into place those workplace visits immediately ceased so to get our information we had to look at other formats and other ways of doing that. The surveying our members directly was one of those and I think they were reasonably well responded to, so that gave us almost, at the time, a kind of snapshot and a real-time view of what our members were experiencing. So it was really to supplement the workplace visits that we used to do prior to the lockdown which ceased.
Q. Were these surveys subject-specific?
A. They could have been if -- so, for example, if a group

of workers had came forward with something or if we'd picked up that maybe something had changed or was of concern to our members, then, yes, the subject of it would be directly related to that particular topic. Other times they could have been possibly more general, as in things like the Social Care Fund, who would be able to get access to it. So it would be a mixture, to be fair.
Q. We heard some evidence this morning from Ms Foyer, the general secretary of the STUC, and she has told us about the engagement between the STUC and its affiliates, of which you are one --
A. Yes.
Q. -- and the Scottish Government. Did you have direct access to the Scottish Government in the pandemic?
A. Yes. I mean, direct access in the ways of obviously corresponding with them directly and there was also other -- the groups started to get set up so we did have direct access to ministers. You know, I think it would be fair to say that, you know, correspondence was regular and done in quite a timeous way, so, yes, I would probably say there was direct access.
Q. I think one of the examples you give in paragraph 25 of your statement is about an issue that was raised with the Scottish Government and resulted in a letter of

apology which was sent -- which, sorry, the Health Minister, Jeane Freeman --
A. Yes.
Q. -- sent to the Scottish Ambulance Service. Can you tell us a little background into that, please?
A. I couldn't be specific about it, it wouldn't be the area I was directly involved in, but I do remember the letter coming in and I think it just highlighted, again, the pressure that we had -- or the issues that we were raising, whether that be pressure being put on ministers as well. When that came in in relation to the Scottish Ambulance Service, I can't remember directly the issue that was raised, but I do remember the letter that Ms Freeman returned to us was very gratefully received by our trade union, yes.
Q. Okay. Thank you. Can I ask you a little bit about PPE? I think this is one of the main subjects within your statement. You deal with it at paragraphs 26 through to 38. You mention various issues around the availability and also the appropriateness of the type of PPE in the private healthcare sector, and I think within the private healthcare sector we're talking about both care homes and care at home. We can obviously read what you say about this but there's just a couple of what may seem small points -- but they're perhaps important that

we get this evidence out -- that I'd like to take up with you. One is about out-of-date PPE. That's something you do refer to. Can you give us a little more detail about complaints or representations that you were receiving from your members about the use or availability of PPE that had passed its sell-by date?
A. Yeah, there were concerns about the access initially to PPE and what type of PPE was going to be appropriate in care home settings and care at home settings as well. Some of our -- I recall some of our members being advised possibly not to wear the PPE as it was, you know, causing heightened tensions with the people that they were looking after and certain PPE -- you know, if we were challenging organisations about what levels of PPE they had in their establishments, they were saying that they had a certain amount, but it was in some cases our members couldn't get access to that. I think that was all building up. Then I do recall certain instances where some of our colleagues had come back to us saying it wasn't maybe the most appropriate PPE that they were being issued with.
I can't recall the actual issue with the -- particularly in the care -- about being out of date. I think the Scottish Ambulance Service provided evidence -- our members in the Scottish Ambulance

Service had provided evidence about the PPE being out of date there. But certainly our members in the care sector had made concerns about the poor quality of it, ill-fitting masks and some of that being -- the dates on the masks being out of date. I think it compounded with the lack of engagement that we were having with some of the care companies who we didn't have recognition agreements with, who we couldn't actually bring this up in a more structured way, and we were having to go in directly with the employer to try and get these matters resolved.
Q. Another point you make reference to is the absence of risk assessments in the event that there were outbreaks of COVID within homes, obviously. You refer to this at paragraph 35. Again, can you give us a little indication of what sort of issues were being raised by your members in that context?
A. Yeah. Where we have agreements in place, very important matters of that are, you know, risk assessments, particularly around obviously health and safety. That would be where a local representative, if there was an issue, could be accompanied by a senior official from the employer to inspect the matter, to deal with it and hopefully get things resolved.
The issue we were talking about previously, possibly

the poor quality of the PPE, some of it being out of date, some of it being, you know, difficult to access for our members, these are the sort of things that could have been dealt with through, you know, proper risk assessments taking place with the trade union and the employer working together in the place of work where something was of concern to them and, if that wasn't in place, then the reality was that we had no reassurance or little confidence that it would actually get resolved.
Q. One of the other points you make -- it's at paragraph 32 of your statement -- is the quality of PPE, but you go on towards the end of that paragraph to say that some care workers were also advised to reuse PPE.
A. Yes. There was a concern that the PPE -- in certain care sectors there wasn't enough of it availability-wise for it to be changed regularly. And I do recall, you know, certainly speaking to some of our members who were taking their own gel in, their cleaning gel, et cetera, and being advised to sometimes use their aprons and masks again. I think, if I recall, around that time there was a shortage of PPE and I think possibly that would be why that was happening at that particular time.
Q. A final point in relation to PPE I'd like to ask you about is perhaps something that we haven't heard a great

deal about, and that is the provision for safe disposal of PPE. It may be fairly obvious, but can you explain to us why it's necessary for there to be such safe disposal?
A. Yeah. I mean, obviously, if that had been used on shift, there needed to be special arrangements put in place for it to be properly disposed of. It probably goes back to what we touched on earlier, where, if there would have been proper facilities in place to raise these through, possibly risk assessments in the workplace, that these sort of things could have been avoided. But at that particular -- I remember at that particular time members of ours were concerned that they didn't know where to put the PPE that they had just used when they were on shift and where to leave it and in some cases reports were coming back in that, you know, PPE from previous shifts were visible in the places that they were working in, which was obviously causing us a lot of concern.
Q. Okay. Paragraph 37, I think you bring a lot of these points together. Again, we can read that. What you do say there is a lot of people were really frightened that the care homes were just becoming a breeding ground for COVID-19. Again, was that something coming from your members or is that just a general understanding from

what was in the news media?
A. I think possibly both, but the anecdotal evidence that we were getting from our members was that, you know, they believed they were going into work where COVID-19 was being spread around and the issue was -- would be people leaving their place of work after a shift and going home and the pandemic spreading that way. So I think those fears were reasonably founded and completely understandable given the circumstances that some of our members were working in.
Q. Right. You make reference to a letter that was sent by or on behalf of 1,500 of your members. It was an open letter dated 4 April 2020, so again only a few weeks into lockdown and the pandemic in the UK, and it was sent to the First Minister, alerting her to the difficulties and pleading for assistance.
Now, I think we all probably realise that unions, for some politicians, can be a bit of a nuisance. I'm not suggesting you are, but I'm sure that that's probably -- were you just being a nuisance or were your members just being a nuisance at this stage or was this something that was genuinely an issue for you?
A. I think it was genuinely an issue and I think, you know, the First Minister at the time was always very courteous with her responses. I think you make reference to it

being early on in the pandemic. I think what I touched on earlier, I think our experience was that, even prior to the pandemic, we were aware of issues in this sector and with what the coming storm was going to bring, we knew before this was only going to make things worse. So it was the evidence that we'd built up over a long period of time that we wanted to alert the First Minister and Government officials to as early as possible.
Q. Could you just read out the quote that you've given from that letter in paragraph 37?
A. Yes, the letter stated:
"We do not feel safe at work. You have lost our confidence by publishing guidance without consultation from front line workers and by forcing us to work with insufficient PPE."
Q. That -- obviously we know the date of that. Subsequently, did matters improve?
A. I don't recall matters improving. My recollection of issues at that time was constant campaigning on behalf of our members to get the correct PPE out there. At the time, I appreciate it was a really, really difficult time, but, you know, with the shortage -- the general shortage of PPE at that time, my recollection of that time was very, very difficult.

Q. In paragraph 38 you tell us about a survey of private care members on the matter of both PPE and pay. This is dated 30 March 2020 and you summarise what that survey disclosed. Could you just tell us about the results of that survey, please?
A. Yeah. So my recollection again would be that we would be getting an overall picture of our members in this particular sector and a decision would have been made to ask the questions to as many of our members as possible to get a snapshot of real-time information about what it was like for people working in the care sector. The results seemed reasonably profound and I think it only goes to show about the high levels of our members' views that -- you know, masks, soaps, hand sanitisers, et cetera -- but those would have been stimulated by enquiries from our members coming in to GMB's sort of central office.
Q. I think we can see that, of those who responded to your survey, 76% said that they had not been provided with appropriate PPE and you give the examples; 85% had not been provided with masks; and 99% would support additional payments for private care workers. That's perhaps not surprising. And then:
"Many stated that they were scared, anxious, stressed, overworked, undervalued and angry at being let

down by the Government."
A. Yes.
Q. So their anger on the basis of that response was directed towards the Government?
A. I think at the time, you know, guidance and legislation was being updated and changing and it was a confusing picture and I think some of the regulations that were coming down from Government sometimes took some time to filter down into the workplaces. We had been challenging the Government on a couple of things around the Sick Pay Fund, et cetera. But the first three points are certainly -- you know, are more work related than anything, I would say.
Q. Can I ask you a little bit about testing, which you go on to deal with. You make the point that the delay in testing care home staff was a matter of considerable concern --
A. Yes.
Q. -- and, at paragraph 40, you raise the issue, which is of course one of the issues that the Inquiry is specifically directed to consider, and that's the transfer of patients from hospitals to care homes.
A. Yeah.
Q. You talk about, with that background, a letter that the GMB Scotland sent to the then Health Secretary,

Jeane Freeman, on 22 April 2020. Again, can you explain what the background to that was?
A. Yeah, my recollection would be that there was a view that the hospitals were going to be inundated with people who were suffering from COVID and that as much space had to be, you know, made available to people who would be sadly suffering from that. And it was our view or my recollection certainly that then the consequence of that would be that people who would be in beds in the hospitals would have to have their care taken elsewhere and the option would be care homes, which did happen. And I think there would be a concern that either people were leaving hospital untested for COVID, going into a care home, but also, as well, that people would be leaving hospital possibly going into a care home where COVID had been spreading. So there was multiple concerns about the process.
Q. Now, you indicate that this correspondence from GMB Scotland to the then Health Secretary did not engender a response.
A. Yeah.
Q. Was that a surprise to you?
A. I think overall the correspondence that we had with the Government, most of it was responded to. I think, if my memory serves me correct, is that possibly Ms Freeman

would have I think picked up on this in a later correspondence with our trade union. But overall I would say our correspondence was met with a response.
Q. I can't find the particular reference. My apologies for that. I think you were concerned that there was no consultation, as far as you were aware, with the GMB in relation to the transfer of -- I've found it -- the transfer of patients from hospitals into care homes. Would you have expected that?
A. It was probably one of the -- on a personal basis, one of the defining moments I recall. It was very hard to comprehend -- I can understand the reasons because at that particular time we were all concerned about people, you know, contracting COVID and how they were going to be treated. But, as I said, I think the concern was that, if my recollection is correct, it seemed to happen quite speedily, and I think, if we had been consulted about it, certainly we would have had a lot of information from our members about certainly what was going on in the care homes. And the concerns that we had would be, you know, obviously -- you know, patients from hospitals going in there either untested or otherwise going in to a care home that did have COVID spreading in it.
Q. Yes, it's paragraph 46. My apologies for losing the

reference. You conclude that paragraph by saying:
"... I was dumbfounded to find out that untested people were being discharged into care homes."
A. I think yeah, because of the level of work that we were involved in with the care homes, we certainly knew -- my colleagues and myself knew how bad it was in there and it was difficult to -- again, my recollection -- but it was difficult to actually recall a care home that wasn't affected by COVID.
Q. I think the concern also extended not merely to those who were working in care homes but obviously also for other residents within the care homes --
A. Yes, exactly.
Q. -- but also those who were transporting people from hospital into care homes, ambulance drivers.
A. Yeah, exactly. And, you know -- I'm sure my colleague when she gives evidence about that bit -- but certainly, you know, the emergency service members that we have in patient transport, et cetera -- yeah, there was a whole sort of consequential risks that would have been happening.
Q. You also tell us, if we go back to paragraph 45, that there was another concern, which was that symptomatic workers were being instructed by some employers to attend work, and you indicate what was symptomatic in

that context.
A. Yeah.
Q. Again, was that something that your members were informing you about?
A. Yeah, and I think a lot of employers were looking for exact, you know, proof that they had -- a member of ours would have had COVID. But if they had the symptoms there was a real risk in essentially -- you know, I think people who had symptoms were reasonably confident they certainly had something and didn't want to go to work. But essentially -- you know, as it says there, essentially due to staff shortages, pressure was being put on our members to go in and we were having to, you know, give one-to-one advice about -- to support them.
Q. And you indicated that in certain instances they were given the instruction to attend work and the possibility that, if they didn't do that, then they wouldn't get paid.
A. Yeah, even prior to COVID there's very little provision for people in the private care sector for proper sick pay. But, yes, I think it would be safe to say that, if you don't show up for work in the private care sector, then you're going to be facing considerable financial hardship, yeah.

Q. Can I ask you a little bit about staffing levels and agency staff, which is something you talk about at paragraphs 50 and following. I think, just looking at the various points you make, you begin with the point that the pre-existing -- there was a pre-existing problem, the level of staffing in care homes, in your view.
A. Yes.
Q. You also refer to the difficulty in recruiting new staff and also the impact of illness, isolation and shielding during the pandemic. You talk about the strain that that placed on staff both physically and emotionally. In paragraph 51 you describe that as "enormous". Again, this was something that your members were reporting back to you?
A. We were trying to provide as much support as possible to our members that were getting in touch with us but with obviously a -- in the paragraph before, we had done some work in my trade union, you know, about the turnover of staff. We'd got information that was around 30% of staff turnover; some in the sector considered to be possibly higher than that at that particular time. So that was what we were going into the pandemic with. But obviously with people starting to contract COVID, people being scared to go to work and the same amount if not

more people after the hospital discharges are taken into consideration, it was -- more and more work was being put on people and, yes, I used the word "enormous". And I do recall having many conversations with our members that carried out that work and what they were going through. It was a very difficult time for them.
Q. You've made the point in that section of both the physical and the emotional impact that this had upon your members working in the care sector. You go on to deal with mental health as a separate subject at paragraph 77 and following. We can obviously read what you say there. But at paragraph 80 you say that you "remember speaking to members who would be phoning us ... to say that they were very scared going to work knowing that they would be returning home and potentially taking the virus back home with them". You say, "[This] was a very profound moment for us, and that is one of the things that I will always remember". Can you give us a little context for that, please?
A. Yes, you know, the reality was the carers have their own families and their own issues as well, and I do remember actually some -- actually carers, when they got time off or days off, they actually wouldn't go home. They would actually stay on site or -- to minimise the risk for their family. And I think it just goes to show the

dedication that they had for the people they were looking after but also the real concerns that they had about taking the virus back home to their loved ones.
Q. You also, at paragraph 81, provide us again with another one of your surveys, and this is of private care members of your union and the impact on their mental health. Again, this is very early in the pandemic, it's 20 April 2020, and it's one to which you received over 1,000 responses. In terms of the way in which you do receive responses to surveys you send out, is that a relatively -- I don't know whether I'd describe it as a good or forceful response.
A. Yeah, I mean, I think -- you know, I think we would -- at the time we felt that the responses that we were getting -- we were confident enough that that was gathering information that we could release to wider sources or use it in Government groups -- in correspondence with the Government. So I think that the surveys were giving us significant information at that time that we probably -- as I said earlier, we would have picked up in workplace visits, but -- and again we knew there were issues prior to the lockdown, so I think that's why we acted very quickly at the outset of the pandemic.
Q. Presumably you reacted by taking the survey because you

were being told of the emotional toll that the pandemic was having on members?
A. Yeah.
Q. I think we can see -- and I'm not going to go through each aspect of the survey -- but if I can take you two aspects, that, at (d), 84% of respondents said that they were in fear of taking the virus home and that was causing them stress at work and also 74% were fearing for their own safety.
A. Yes.
Q. Could I go back in your statement -- I diverted off to look at that section on mental health. Could I go back to look at paragraph 56, please? This is in relation to the concern about the use of agency workers in care homes. I think obviously we all understand what agency workers are and that they form a necessary part of the workforce in care homes. What was the particular concern about agency staff?
A. Well, yes, the agency staff were obviously used even prior to the lockdown to essentially supplement, you know, the staff shortages. There was concern, you know, even early on in the pandemic that there was no control over where agency workers would be going. They would be sent to different care homes, different sites, and I think there was, I think, a real and genuine concern

that, you know, visiting different sites was an area where they felt that the pandemic could spread more easily and that at least with —— if you're employed by —— in one care home I think it would be safe to say that it would be easier to monitor staff, et cetera, with what's going on. But with the use of agency, you don't —— it's workers coming in, you don't know who they are, where they've been, et cetera. I think that's the areas that were causing concern to our members.

Q. A couple of points if I may on shielding. At paragraph 68 —— again we've heard a little about this but I'd like to ask you your own view on it from what was being relayed to you by your members. In the last sentence of paragraph 68 you say that there was "a lot of concern about members who were pregnant". What was the state of knowledge at that time about the position of those who were expecting?

A. I think the reality was we were all unsure but a real concern was there. You know, we were obviously seeing what was happening in other countries and, as COVID started to hit the UK, people who had medical conditions, whether they had medical conditions and were going to work or they had their loved ones or family had medical conditions at home —— there was a real concern that going to work in a care home or going to deliver

care in people's homes, you're at real risk of picking up the virus and spreading it. I think at the time, in relation to our members who were pregnant, I think there was just a real concern that there was no —— at that particular time no protection put in place for our members who were pregnant. And I remember distinctly having a one—to—one conversation with a member about the concerns and, you know, I would be upfront and advise her not to go to work even though I knew the financial hardship that would bring.

Q. The other area in relation to shielding I'd like to ask you about is what you say at paragraph 70, that:

"... some employers were persuading members to go [to] work when they should have been shielding, to [make up for, I suppose] account for staff shortages."

So you were getting that information as well?

A. Yeah, directly from our members. It goes back to what I said earlier, that there were staff shortages prior to the lockdown. So if you can recall all the difficulties and issues that were happening at that particular time, with more people coming into the care homes and more people maybe going off unwell or avoiding going into work, then pressure was being put on our members who had loved ones at home or themselves may have had medical conditions that would have caused them concern if they

had caught COVID.

Q. In that sort of situation what sort of representations could the union make during the pandemic?

A. Yeah, well, if we were picking it up with a particular organisation —— if there was several people coming forward, then certainly we would enquire to the organisation as to what was happening, if there were other ways that this could be resolved, rather than putting pressure on people. But the reality was a lot of it would have been one—to—one support and at that particular time it was —— these cases were very emotional because people had real, real concerns about essentially, "Do I go to work with all the risks that that will undertake or am I going to be facing financial hardship by not going to work?". So a lot of the work that we did during the lockdown had changed to a lot of it being advising and, as I say, very emotional support at that particular time.

Q. At paragraph 71 and following you talk about communication and support. You make the observation in 72 —— that's something obviously we've heard a lot about in different contexts —— that guidance, Government guidelines, changed at very short notice. What you say in relation to this is that "This caused confusion" but you go on from that to say a "mistrust of

Scottish Government ministers" and you say that you still think that that lingers on today. Now, taking that in various parts, can you explain —— I understand the confusion. Can you explain why in your members this was causing mistrust of Scottish Government ministers?

A. I think a lot of the guidance that was coming out from the Government at that particular time —— I would say it was being said in good faith with the hope and expectation it would help workers in their own specific workplaces. I think by the time it had filtered down to that level, the reality of what our members and workers were facing was very different. You know, there was issues around —— we were talking about —— earlier on —— about the agency workers not supposed to be going into a variety of workplaces. That took a while to come down. The social distancing; how can you actually operate in a care home while, you know, still having to acknowledge the social distancing and the 2—metre rule? So there was issues like that and, as I said, I accept that these announcements, a lot of them were made in good faith, but the reality was it was a different picture on the work floor.

Q. And what you're portraying is that your members had a mistrust rather than perhaps a misunderstanding —— that they had a mistrust of what the Government was

doing at the time?
A. Yeah, I think it would be that element that they would —— that what they were actually facing in the workplace at that time didn't, you know, correlate with the announcements that were being made by Government ministers, and I think as well with —— there probably —— in my own view, there was this lack of engagement with a lot of private care employers to engage with us direct. So a lot of it we were taking up with the Government where —— maybe in a better world where we could have been dealing with employers direct, we could have got these matters resolved. But I still think that when announcements were being made, as I say in good faith, by the time they had filtered down to our members, it just wasn't the reality they were facing.
Q. At paragraph 74 you tell us about the Care Home Rapid Action Group set up by the Scottish Government in May 2020 but this was "after considerable pressure from [the] unions and [it] came too late". Can you tell us a little bit about that group, please?
A. Yeah, I wasn't part —— I didn't sit on it myself, but I do remember that there was a variety of groups set up and, even with the title of that group, it was a forum where information could be fed in very, very quickly. It was reasonably early on in the pandemic, but, as

I said, we had real concerns about the sector prior to it. So it was an avenue for us to raise issues at a reasonably speedy sort of —— when things became relevant to us certainly from the information we were getting from our members. But there was that many groups, I think sometimes a lot of information was getting lost in there and it was very difficult for us to relate that back to our members, who were coming to us with very serious issues.
Q. I think that's what you say in the last sentence.
A. Yes, that's right, yes.
Q. Going back right to the beginning of your evidence, you mention that you perhaps wished that at the outset of the pandemic there had been a national strategy, which I think is what you were calling for in your union's letter to the First Minister in March —— on 19 March. If there had been a national strategy, what would the GMB have regarded as being the essential elements of that strategy?
A. Yeah, I think for us, looking back at that, I think personally I would like to have seen that we would have more positive dialogue with private care employers —— rather than us having to be —— you know, take up concerns with our members in the first instance —— you know, at the very top level of organisations. I think

the national strategy kind of sets a scene whereby, irrespective of where the care home was situated, what type of care was being provided, everyone was going to be affected by this, so "Let's try and all work together in what was ..." —— I think, you know, the General Secretary —— the Scottish Secretary at the time, the General Secretary now, said, you know, "There's going to be a national emergency", and I think we would have been looking for the general day—to—day issues between employer and trade union. While they wouldn't have went away, but I think we could have all realised that, if we were going to work through this together, there could have been a more co—operative and collaborative approach and unfortunately that failed to happen.
Q. Okay. Just one other point you make, Mr Arkison. At paragraphs 86 to 88 you deal with the impact of the pandemic on people receiving care. Obviously this is something we have heard a lot of evidence about. One thing again, which is perhaps interesting to get it from your perspective as representing a large cohort of people who work within the care sector, is that, as you say in paragraph 87, "There was no substitute for physical touch from family members", and also presumably, where there are no family members, from

carers. That's presumably something that your own members were telling you?
A. Yeah. In fact on many occasions our members will actually comment that the people they look after as they're extended family, and they would obviously be coming back to us with the importance of that and obviously having to try and substitute that because people, you know, at the time were locked out of care homes and our members in the care homes were trying to replicate that or trying to substitute that, which was very, very difficult for them. As I say, even today and prior to the COVID, they will comment on the people they look after as their extended family.
Q. Thank you. Now, we have your lessons to be learned and the hopes for the Inquiry and we can read those and we're grateful to you for you and your union giving your thoughts to those matters. In conclusion, Mr Arkison, can I just ask you, is there anything that you would like to further say that we haven't perhaps dealt with in the course of the discussion this afternoon?
A. I just would like to conclude with a couple of sentences, if I could say that?
Q. Yes, please.
A. Just overall employers in the private care sector have failed to improve the working lives of our members since

COVID. Still today we're seeing care homes shutting with a few weeks' notice and care companies ignoring the workers' statutory rights and only paying them the legal minimum of pay. Prior to COVID this sector was in crisis and post COVID it's difficult to see if any positive change has come from the employers. That's what I'd like to say and I'd like to thank you for listening to what I've had to say today.

MR GALE: Thank you very much, Mr Arkison. Those are all the questions I have for you. Thank you, my Lord.

THE CHAIR: Thank you, Mr Gale. Thank you, Mr Arkison. That's the conclusion for today. Is it 9.30 tomorrow morning, Mr Gale?

MR GALE: Yes, it is.

THE CHAIR: 9.30 tomorrow morning. Thank you.

MR GALE: Thank you, my Lord.

(2.57 pm)

(The hearing adjourned until Wednesday, 23 April 2024 at 9.30 am)

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