

OPUS2

Scottish Covid-19 Inquiry

Day 37

April 23, 2024

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1 Tuesday, 23 April 2024
2 (9.30 am)
3 THE CHAIR: Good morning, Mr Gale.
4 MR GALE: Good morning, my Lord.
5 This morning, my Lord, we're beginning with a number
6 of witnesses from the STUC and various affiliate unions
7 of the STUC. Our first witness this morning is
8 Rozanne Foyer, who is the general secretary of the STUC.
9 MS ROZANNE FOYER (called)
10 THE CHAIR: Good morning, Ms Foyer.
11 A. Good morning.
12 MR GALE: Her statement is SCI-WT0817-000001. Therefore
13 with leave, my Lord, I'll begin her evidence.
14 THE CHAIR: Yes, do.
15 Questions by MR GALE
16 MR GALE: Ms Foyer, good morning.
17 A. Good morning.
18 Q. You are Rozanne Foyer, I think; is that right?
19 A. I am, yes.
20 Q. I think you're known as "Roz" more commonly.
21 A. That's right.
22 Q. You are the general secretary of the STUC?
23 A. I am, yes.
24 Q. I think you took up that position almost
25 contemporaneously with the first lockdown.

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1 A. Indeed, yes, 16 March 2020.
2 Q. 16 March 2020.
3 Now, also in relation to your position as general
4 secretary, you have already given evidence to the
5 United Kingdom Inquiry when it sat in Edinburgh on
6 Wednesday, 17 January of this year?
7 A. That's correct.
8 Q. And your evidence for the record is recorded in the
9 transcript of that day at pages 29 to 52. You also
10 provided a statement to the UKI and we have available
11 that statement to us. As I say, you gave evidence to
12 the UKI in the context of Module 2A, as they are calling
13 it, which was examining the Scottish Government's core
14 decision-making between January 2020 and May 2022. Your
15 statement to the UKI was divided into five parts. For
16 present purposes we note that part E of that statement
17 is in respect of the impact on STUC members --
18 A. Yes.
19 Q. -- but it was a relatively short part of that statement,
20 as I've noted it.
21 A. [Nods]
22 Q. Again, just for the record, Ms Foyer, you are agreeable
23 that your statement be published and that the evidence
24 you give today in amplification of that statement is
25 recorded for our purposes as we progress?

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1 A. Yes, I am.
2 Q. You've provided us with a detailed statement and we're
3 very grateful to you for that. As you say at
4 paragraph 4 of that statement, the statement relates to
5 the impact of those working within the health and social
6 care sectors.
7 A. Yes, it does.
8 Q. Yes. Your own personal background is set out at
9 paragraph 5, but can you just tell us a little bit about
10 your role as general secretary, what it involves and in
11 particular what it involved during the pandemic because
12 you were there from the outset.
13 A. Yes. I'm the principal officer of the Scottish TUC, and
14 the Scottish TUC, as you will know, is the umbrella body
15 for trade unions in Scotland. We represent over half
16 a million trade union members and our purpose is to
17 co-ordinate and articulate and campaign around their
18 views and aspirations as workers and citizens.
19 In the context of the pandemic, we were obviously
20 dealing with a very, very critical situation that
21 affected many of our members, particularly those working
22 on the front line delivering essential services, and the
23 predominant role that we had was to liaise with and
24 lobby Government to try to get measures put in place to
25 increase the protections available to our members and to

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1 campaign around the issues that affected them throughout
2 the pandemic at their place of work.
3 Q. Thank you. I'm going to take for present purposes,
4 given time constraints, Ms Foyer, the section of your
5 statement in which you give an overview of the STUC as
6 read, save to say that I think at paragraph 11 of your
7 statement you tell us about affiliates and works
8 councils and you have helpfully set out, at appendix A
9 to the statement, a list of those affiliated unions
10 which have an interest in health and social care.
11 A. Yes.
12 Q. In the course of your statement, on several occasions
13 you quote from representations that have been made by
14 various of the affiliates to illustrate various of the
15 points that you're wanting to make; is that right?
16 A. Yes, that's correct.
17 Q. Can you just indicate how you went about choosing the
18 various quotations that you've given and just at this
19 stage in general terms indicate what purpose you seek to
20 make when you make these statements?
21 A. I think our purpose is in ensuring that, as far as
22 possible, workers' voices are heard and, you know, at
23 the highest levels. By its very nature the STUC's role
24 is to take an overview. We had many affiliates
25 contacting us around many different issues and the

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1 statements I've picked would be the ones that show the
 2 most commonly experienced situations or challenges that
 3 workers were facing at that time. So it's to give some
 4 example and some voice to our members who actually were
 5 on the front line. We are simply the umbrella body that
 6 represents those views.
 7 Q. I think we will be hearing from representatives of
 8 various of the affiliates ---
 9 A. Indeed.
 10 Q. --- and we will get perhaps more of the context ---
 11 A. Yes.
 12 Q. --- that those quotations are given in as we go through
 13 their evidence.
 14 One point I would like to ask you about at the
 15 outset is you have provided us with a brief overview of
 16 the STUC's engagement with the Scottish Government
 17 during the pandemic --- pre-pandemic as well but during
 18 the pandemic in particular. I think, as you will
 19 appreciate, this is something that the Inquiry will
 20 return to ---
 21 A. Indeed.
 22 Q. --- when we're going to be dealing with both
 23 implementation but more particularly with
 24 decision-making as we progress through our
 25 investigations. But what I'd like to ask you about

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1 is --- to get some context for your evidence, I'd like to
 2 ask you about the COVID Group that you mention at
 3 paragraphs 22 and following of your statement. Can you
 4 just tell us how the COVID Group came about and what its
 5 purpose was?
 6 A. Yes, we obviously, very rapidly, like many
 7 organisations, went into a home-working model and
 8 a model where there were no physical meetings. We were
 9 dealing with a very critical and rapidly changing
 10 situation and we needed a forum whereby our trade unions
 11 on the ground and our reps could get through problems,
 12 issues, very quickly to us that could be escalated to
 13 the Scottish Government. We made an agreement with the
 14 Cabinet Secretary, Fiona Hyslop, at the time that we
 15 would meet, and at the beginning it was very intensive
 16 engagement, it was twice-weekly meetings, and the unions
 17 represented on the COVID Group were those unions whose
 18 members were most engaged in the delivery of essential
 19 front-line services. We did bring in others from time
 20 to time. And that group was meeting, you know, several
 21 times a week to escalate issues and to highlight
 22 problems to Scottish Government, areas where we saw gaps
 23 or action that needed to be taken.
 24 Q. I think you indicate at paragraph 30 of your statement
 25 that the STUC was given good access to

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1 Scottish Government and efforts were made by the
 2 Scottish Government to build effective communication
 3 channels so that workers' concerns could be raised and
 4 to discuss any issues or problems on the ground at the
 5 different stages of the Government's COVID response as
 6 they emerged.
 7 A. Yes.
 8 Q. So it seems a relatively --- according to what you're
 9 saying there, a relatively positive engagement with the
 10 Scottish Government?
 11 A. It was a welcome engagement and it was very important
 12 that the Scottish Government were talking to trade
 13 unions because our members were in a position to
 14 highlight issues to them that they wouldn't have
 15 otherwise been able to address. So it was something
 16 that we saw as a very positive engagement. We didn't
 17 always get everything we asked for but that access alone
 18 was a positive development for us.
 19 Q. And I think one of the things that we will hear about,
 20 both from yourself and from representatives of your
 21 affiliates, is that throughout the pandemic you
 22 affiliates and indeed the STUC carried out surveys of
 23 members so that there was always an input into either
 24 the affiliate or to the STUC more generally of
 25 information which could then be translated on to the

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1 Government as and when necessary.
 2 A. Yes.
 3 Q. Now, you've listed in paragraph 30 various areas where
 4 this arrangement and engagement with the Government had
 5 benefits, if I can put it that way, and you conclude at
 6 paragraph 31 that the engagement between the STUC and
 7 the Government was such that, insofar as the response to
 8 the pandemic was concerned, it did make a positive
 9 difference.
 10 A. Yes, there were a number of areas where we were able to
 11 make progress on key issues on behalf of our members
 12 that had been very much lacking in the opening stages of
 13 the pandemic. We think that our discussions were able
 14 to make a positive difference around issues like PPE,
 15 around the introduction of a sick pay scheme for social
 16 care staff, around the Fair Work coronavirus statement,
 17 which many reps used actively in the workplace to secure
 18 terms and conditions that stopped any detriment to
 19 workers who were taking time off sick across the public
 20 sector and a range of other areas where we felt that
 21 there was, you know, some progress made.
 22 Q. Some of these issues are matters that other colleagues
 23 within the Inquiry team will take up with the STUC and
 24 in particular issues, for example, about sick pay and ---
 25 A. Yeah.

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

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

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

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

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

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

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

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

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

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

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

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

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1 a lack of interpretation and understanding of guidance.
 2 So we've got evidence where some employers were not
 3 applying the sick pay scheme, even though it was
 4 available to them; we have evidence of PPE being
 5 rationed or unavailable to workers in those areas and --
 6 you know, a really, really difficult sector to work in
 7 and a lot of those workers felt abandoned really and
 8 very, very low. Also just their experience of watching
 9 their residents, who they cared deeply about, and the
 10 situations the residents were going through was really
 11 upsetting and distressing.
 12 Q. One thing that you do highlight at paragraph 66 is what
 13 you term a "staggering 96% of staff who took part in the
 14 survey reported staffing shortages". Now, I suppose one
 15 could always expect staff to say, "There's not enough of
 16 us, we're experiencing shortages, we would want ideally
 17 more staff", but was that level of response, in your
 18 view, indicative of a more serious problem?
 19 A. Yes. We're talking about extremely serious levels of
 20 staffing shortages that necessitated, you know, very
 21 difficult action to be taken. So, for example, in home
 22 care in Glasgow, at one point they had to reduce their
 23 service to life and limb cover only and thousands of
 24 clients and users of that service no longer had care
 25 packages for a period of time. And, you know, that was

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1 just one example of some of the quite large measures
 2 that had to be taken. And you're talking about home
 3 care workers who then are really worried about some of
 4 the clients and users of their services.
 5 By its very nature, care involves emotional
 6 investment by the worker and you don't just stop looking
 7 after someone and not worry about them. So, you know,
 8 when you've got those kind of difficult decisions having
 9 to be made on a daily basis and where you're having to
 10 actually compromise the level of care in the services
 11 that you're delivering, that is soul-destroying for care
 12 workers.
 13 Q. I suppose one of the points that perhaps is not always
 14 appreciated is that carers can develop a bond of
 15 affection with those they are caring for and either the
 16 deaths or the illness of those people that they're
 17 caring for is something that they can feel very deeply.
 18 A. Absolutely, and I think that, you know -- I would change
 19 that word from "can" to "do". They do habitually
 20 develop that bond. I would say that's part of good
 21 care, is that emotional aspect. You know, that requires
 22 real skill but a lot of genuine emotional investment by
 23 the employee involved in delivering the care.
 24 Q. One of the tragic aspects of the pandemic, amongst many,
 25 I suppose, is the level of deaths within those providing

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1 social care. You deal with this at paragraph 67 and
 2 following of your statement, and thank you for the
 3 reference to the paper by Professor Taylor. That's
 4 something we will be looking at.
 5 You do make reference at paragraph 69 that there is
 6 insufficient data on worker deaths during the pandemic
 7 and the available data can be difficult to reconcile.
 8 Can you explain that, please?
 9 A. Yes. We became increasingly concerned, due to the very
 10 emergency crisis nature of the pandemic across our
 11 health and social care services, that normal reporting
 12 procedures weren't being followed in a great many cases.
 13 For us this was a concern because, you know, we believe
 14 that there is very strong evidence that shows that
 15 certain occupations were directly affected and that
 16 their exposure would have been through their occupation
 17 and their workplace duties. But in many cases exposure
 18 to COVID wasn't being recorded under RIDDOR and other
 19 health and safety processes in the way that it normally
 20 would have at a non-crisis, non-emergency time. This
 21 was predominantly down to the staffing shortages and the
 22 resource issues that we've talked about. So, for
 23 example, in the NHS our understanding is that this only
 24 was carried out in its fullest form when there was
 25 a fatality, but we believe that across wider health and

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1 social care there were reports being missed or not
 2 attributed to workplace exposure that should have been
 3 attributed to workplace exposure at the time.
 4 Q. Just an expression that you use -- and you use it again
 5 later in your statement -- which you use in
 6 paragraph 71, and you say:
 7 "Other research suggests that differences in
 8 mortality rates across occupations reflect both
 9 occupational risks and the social class gradient in
 10 underlying health."
 11 It's that expression, "social class gradient in
 12 underlying health" that I particularly want to ask you
 13 about because, as I say, you use it again later on.
 14 What are you conveying with that?
 15 A. I think what we are conveying with that is that there is
 16 evidence to show that COVID was a class killer in terms
 17 of, you know, your social class matters in whether you
 18 contracted COVID and also as a determinant in how
 19 serious your virus may be. We found that, you know, you
 20 can look at occupations but, when you start to break
 21 down those occupations, those who worked in clinical
 22 health in higher grades, for example, were less likely
 23 to be exposed to COVID or to have a fatality from COVID
 24 whereas those on lower grades and in lower social
 25 economic groups would be more likely to succumb to it

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1 but also succumb more seriously to the effects of the
2 virus.
3 So I think, you know, it disproportionately affected
4 people. Now, some of that might be due to underlying
5 health issues to begin with; some of it though, we feel,
6 was around the sort of work that was being carried out.
7 So the people like — the people who were cleaning out
8 the ambulances, the porters, the cleaners in hospitals,
9 you know, might not have been getting the best kit and
10 the best PPE but they were undoubtedly being exposed to
11 the virus, which we now know was airborne, on a daily
12 basis. You know, we think there are key lessons to be
13 learned there in terms of which roles were exposed and
14 also the impact on those people.
15 Q. Thank you. Long COVID is something you deal with in
16 your statement and, again, this is something the Inquiry
17 has heard a considerable amount of evidence about so far
18 and will continue to hear more specific evidence about
19 it. One of the issues that we've heard evidence about
20 is the scepticism really across various sectors,
21 including among health professionals, as to the
22 veracity, if we can put it that way, of long COVID.
23 Paragraph 77, you refer to the steps that the STUC has
24 taken to highlight the complexities in diagnosis,
25 et cetera, and the support of members suffering

25

1 long COVID. Can you tell us what steps the TUC has
2 taken in that regard?
3 A. Yes. We've — obviously we've worked with Long COVID
4 Scotland to highlight awareness of long COVID as an
5 issue. We've held events and briefing sessions for
6 trade union representatives so that they can support
7 members who are reporting long COVID and we have
8 promoted reports and research around long COVID and who
9 it is affecting. For us, long COVID is a serious issue
10 that needs to be recognised. We believe that, you know,
11 over 175,000 people in Scotland have reported symptoms
12 of long COVID and we have workers across health and
13 social care who are still suffering the long-term
14 after-effects of having been exposed to COVID, and in
15 some cases that is life-changing for them and is having
16 an ongoing impact on themselves and their families.
17 So we would like to see long COVID being recognised
18 as an industrial occupational illness and, you know,
19 appropriate industrial injury benefit being applied to
20 sufferers of long COVID as well as compensation for
21 those that paid the ultimate price and, you know, had
22 fatality as a result of exposure.
23 Q. Is it your experience that long COVID presents an
24 obstacle or is continuing to present an obstacle to
25 staffing, particularly in the care sector?

26

1 A. It's our experience that there are enough people who —
2 it's certainly an obstacle to staffing levels in terms
3 of the numbers who have it. There's only a small number
4 of people who have it on a very, very long-term basis,
5 but for those workers it certainly is an obstacle to
6 them re-entering their roles in the workforce.
7 At the beginning we had a statement — a Fair Work
8 COVID statement that we'd agreed with the
9 Scottish Government that covered most of the public
10 sector and a range of publicly funded areas that said
11 that workers shouldn't suffer any detriment should they
12 be off with long COVID. That statement was changed and
13 withdrawn so that that protection no longer exists. So
14 many of the workers who have serious cases of long COVID
15 actually are no longer able to be part of the social
16 care workforce. They've been removed from the
17 workforce.
18 Q. Right. Can I move on to perhaps one of the more
19 controversial subjects, and that is the availability and
20 sufficiency of PPE.
21 A. Yes.
22 Q. You've provided us with a section of your statement
23 headed "Infection Prevention and Control" at
24 paragraphs 82 to 101. Again, you've provided the
25 Inquiry throughout that with various references to

27

1 observations from a number of your affiliates and
2 obviously we can read these.
3 There's a couple of points I'd like to take up with
4 you. First of all, at paragraph 88, you observe that
5 unions would advise their members in certain
6 circumstances to utilise the protection afforded by
7 section 44 of the Employment Rights Act. Can you
8 explain why, in the context of the availability or
9 non-availability of PPE, that right or those rights
10 might be invoked?
11 A. Yes. Section 4 of the Health and Safety at Work Act
12 allows an employee to take appropriate steps to protect
13 themselves from serious or imminent danger to their
14 health and safety, and there were occasions,
15 particularly in the early stages of the virus — and
16 I remember the Scottish Ambulance Service being a really
17 difficult area at that time — where appropriate PPE was
18 not available in a whole range of areas. And trade
19 unions and their members were growing increasingly
20 concerned and Unite, the trade union, did advise its
21 members to invoke section 44 of the Act if they were not
22 issued with suitable PPE and were being sent out to deal
23 with situations and carry out their duties and that, if
24 they were feeling unsafe and they felt they hadn't been
25 given appropriate PPE, it was advice they were given,

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1 that they could invoke section 44.
 2 This was at a point where other unions who operated
 3 in that sector — GMB I believe sent an open letter to
 4 Government to highlight the extreme concerns that
 5 workers had. We almost had a mass walk-out at that
 6 stage. The situation was resolved, but it was really,
 7 really telling of some of the massive failures of
 8 Government to protect the front-line staff that, you
 9 know, the PPE just wasn't there. The stockpiles that
 10 should have been there, the equipment that should have
 11 been available to staff for just such a situation,
 12 wasn't available to them when they needed it most, and
 13 that was a real failing .
 14 Q. The second point I'd like to ask you about is what you
 15 say at paragraph 89 of your statement. You say that in
 16 the early stages of the pandemic that "staff in
 17 a variety of health ... care settings were not receiving
 18 PPE", and you tell us that this was raised frequently,
 19 initially with Fiona Hyslop, who I think was the
 20 Cabinet Secretary for the Economy at that time. Explain
 21 what was done at that stage. What representations
 22 were you making?
 23 A. So at that stage we were in touch with the
 24 Cabinet Secretary. That would have been one of the very
 25 earliest meetings. I actually think that was a specific

1 meeting around that issue, if I can remember correctly.
 2 We were raising it not only with the Cabinet Secretary
 3 for Economy, who was our key contact in the COVID Group,
 4 but it was also being raised obviously with the
 5 Cabinet Secretary for Health, Jeane Freeman, and
 6 across — you know, we were also highlighting it to the
 7 media as well because this was something that was going
 8 to lead to a crisis situation if our members didn't feel
 9 safe at the very basic level to carry out their duties
 10 in the context of the pandemic.
 11 Q. Interestingly, at paragraph 90, you tell us about an
 12 online survey which was carried out in the last week
 13 of March 2020, so very early in the pandemic —
 14 A. Yeah.
 15 Q. — and reported that over half of respondents who were
 16 required to work didn't feel safe, with 42% saying they
 17 did not have access to adequate PPE.
 18 A. Yeah, and at that early stage we're not just talking
 19 about, you know — this is right across health and
 20 social care. We had areas that you would expect — you
 21 know, our emergency services that didn't have access to
 22 adequate and appropriate PPE at that stage, but, you
 23 know, we had areas, local governments, social care
 24 workers, that were supporting people in their homes.
 25 I'm aware of reps who were going out and buying hand

1 sanitiser and masks for their members out of their own
 2 money to try and give them some protection. There was
 3 a massive shortage of PPE right across the public sector
 4 and the private sector was in an even worse state, to be
 5 honest.
 6 Q. Now, you've provided us with a useful summary of the
 7 issues that were caused by the limited supply of PPE.
 8 You do this in paragraph 95 of your statement and
 9 obviously we can read all of those. But there is one
 10 that I'd like to take up with you and that's one that
 11 you actually go on to talk about a little bit more in
 12 paragraph 96. That's the use of out-of-date PPE, and
 13 you make reference to GMB and your colleague from the
 14 GMB will be telling us about that —
 15 A. Yeah.
 16 Q. — in some more detail. So far as you were aware, is
 17 there and was there a problem with re-marking PPE
 18 with — and covering up dates, essentially expiry dates
 19 of PPE? Was that a problem?
 20 A. This is our understanding of the situation. It was
 21 reported to us by GMB at the time that this issue had
 22 arisen alongside all of the myriad of other issues
 23 around PPE that were reported back to us by our various
 24 different affiliates. But, yes, that is correct. This
 25 was highlighted as an issue and obviously an issue of

1 extreme concern to the members in that particular
 2 service .
 3 Q. I'm mindful of the time, Ms Foyer. Can I move on to
 4 your section on risk assessment? Just very briefly on
 5 that, you say at paragraph 109 that union workplace
 6 representatives were reporting that they were "often
 7 left to 'police' workplaces". Again, could you give
 8 some context to that, please?
 9 A. Yes. I think that, although lots of work had been done
 10 to produce guidance for a range of workplace contexts
 11 under Public Health regulations at Scottish level, in
 12 many cases there just wasn't the resource within the
 13 Health and Safety Executive or environmental health
 14 officers, due to cut-backs, for them to go in and police
 15 the implementation of this and in many areas it was
 16 being left to union reps themselves to make sure that
 17 guidance was being followed, being disseminated to
 18 workers, and this was a real issue for us.
 19 I also think that the validity of the guidance was
 20 diluted somewhat. There was a weakness in the
 21 enforceability of a lot of the workplace guidance, with
 22 many UK companies simply choosing to ignore the Scottish
 23 guidance and go with UK guidance instead. And that's
 24 something that we've got some concerns about and
 25 I actually think there's a case there for health and

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

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

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

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1 that is crying out to be looked further into. It needs
 2 to be valued and funded sustainably and all social care
 3 workers need to have access to full contractual sick
 4 pay, and instead what's happened is they've been largely
 5 left to rot. Nothing is changing in social care. In
 6 fact some of the things that were put in that improved
 7 things for a while have been rolled back on, and that is
 8 not good enough for our social care workers in Scotland.
 9 Q. I think the call for social care to be valued more
 10 highly is something we've heard from a number of people
 11 across the board so we are very conscious of that.
 12 But, Ms Foyer, apart from that, thank you very much
 13 indeed for your evidence.
 14 A. Thank you.
 15 MR GALE: Thank you, my Lord.
 16 THE CHAIR: Yes, thank you, Ms Foyer.
 17 Very good. Shall we say 10.50 to resume?
 18 MR GALE: Thank you, my Lord, yes.
 19 (10.34 am)
 20 (A short break)
 21 (10.51 am)
 22 THE CHAIR: Good morning, Ms Bahrami.
 23 MS BAHRAMI: Good morning, my Lord. The next witness is
 24 Dave Moxham, who is the deputy general secretary of the
 25 STUC. For the record, his statement reference number is

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1 SCI—WT0439—000001.
 2 MR DAVID MOXHAM (called)
 3 THE CHAIR: Very good. Good morning, Mr Moxham.
 4 A. Good morning.
 5 THE CHAIR: When you're ready, Ms Bahrami.
 6 MS BAHRAMI: Thank you, my Lord.
 7 Questions by MS BAHRAMI
 8 MS BAHRAMI: Mr Moxham, please could you tell us how long
 9 you've worked at the STUC?
 10 A. I've worked for the STUC for just about exactly
 11 20 years.
 12 Q. How long have you been in your current role?
 13 A. In my current post for 16 of those years.
 14 Q. Thank you. As you know, we've just heard from your
 15 colleague who is the general secretary of the STUC.
 16 Please would you tell us about the role of the deputy
 17 general secretary and how that differs from the role of
 18 the general secretary?
 19 A. Yes, so as the title suggests, there is a deputising
 20 role so that, in the case that the general secretary is
 21 otherwise occupied, I would be expected to be able to
 22 undertake the majority of her roles. However, I had
 23 defined policy roles within the STUC, including
 24 campaigns and communications, where I was responsible
 25 for our media output and our general communications with

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1 the outside world. But over those 16 years I've
 2 obviously held a wide range of different policy
 3 responsibilities, including in the public sector,
 4 working with the voluntary and care sector in a policy
 5 capacity and really any other policy area that the
 6 general secretary would ask me to cover.
 7 Q. Thank you. Given that you were at the STUC for such
 8 a long time, can you tell us a bit about the
 9 relationship of the STUC with the Scottish Government
 10 prior to the pandemic?
 11 A. Yes. I mean, over a long period of years I'd say that
 12 we enjoyed a positive, if critical at times,
 13 relationship with respective Scottish governments. We
 14 had the engagement across a wide range of policy
 15 sectors. That would be dependent somewhat on the
 16 engagement that our affiliated unions had. So, for
 17 instance, in the NHS, where there's well-developed
 18 partnership relationships between the unions and the
 19 health authorities, maybe less so -- in other areas,
 20 such as hospitality, where there's very little trade
 21 union presence, we would take a greater role. We would
 22 tend to co-ordinate meetings and engagement between
 23 unions and the Government where multiple unions were
 24 present in order to get the most streamlined and
 25 effective way of engaging between the trade union

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1 movement and Government.
 2 Q. Thank you. Would you have regular standing meetings
 3 with the Government or were the meetings just ad hoc as
 4 the need arose?
 5 A. A range of standing meetings. We would meet twice
 6 a year as a set piece with the First Minister and
 7 members of his cabinet, depending on subjects to be
 8 discussed. There would be an expectation of regular
 9 meetings with other cabinet secretaries and policy
 10 leads, although they wouldn't be diarised in the same
 11 way as the meetings with the First Minister. But across
 12 any given year I would expect and still expect to have
 13 upwards of 20 meetings with one cabinet secretary or
 14 another, which I would characterise as a fairly
 15 consistent and deep engagement.
 16 Q. Prior to the pandemic where did the meetings take place?
 17 A. There were a range of venues. Most normally in
 18 Edinburgh, quite often in the Scottish Parliament, but
 19 quite regularly as well in Scottish Government buildings
 20 such as St Andrew's House or Atlantic Quay.
 21 Q. Thank you. Now, when it became clear that the pandemic
 22 was going to affect society, before the restrictions
 23 were in place, what action did the STUC take to ensure
 24 it was best placed to utilise the relationship it had
 25 built up with the Government?

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1 A. Somewhat fortuitously we had a pre-arranged meeting,
 2 which I think from memory was March 5, with the Economy
 3 Cabinet Secretary, Fiona Hyslop, which hadn't been set
 4 with the view to beginning discussions on COVID but, by
 5 the time the meeting came around, it was a clear issue.
 6 So we were able quite early in that meeting to raise the
 7 issue, which obviously the Cabinet Secretary was happy
 8 to agree to. Thereafter we had reached a very quick
 9 understanding that Government and trade union engagement
 10 at an accelerated rate would be required. So we were
 11 reasonably well placed in terms of contact and early
 12 dialogue to begin the process of agreeing a more formal
 13 engagement. We then, as you've heard, contacted what
 14 I will use as our key affiliates, representing a range
 15 of those most affected and those largest, and began the
 16 process of bringing them together in order that we could
 17 directly agree initial plans for engagement with the
 18 Scottish Government.
 19 Q. Thank you. Was that as part of the COVID-19 Group?
 20 A. That was part of the COVID-19 Group, yes.
 21 Q. And I believe initially you also became involved in
 22 COSLA, the Convention of Scottish Local Authorities.
 23 A. Yes. So COSLA created quite quickly a workforce issues
 24 group, which brought together not just its own officers,
 25 officers from SOLAS and a range of unions, again either

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1 what we described as our local government unions at GMB,
 2 UNISON and Unite, but also our teaching unions, in order
 3 to deal directly, I guess, with local government, and
 4 obviously that covered care and education issues too.
 5 Q. Your involvement in COSLA was limited in duration.
 6 Did you feel that — was that a decision based on
 7 resources, that you thought resource would be better
 8 used elsewhere or did something else affect that?
 9 A. Partly. I mean, I think it was important for us to be
 10 engaged in the first instance because obviously we have
 11 particular experience, as the STUC, in convening — if
 12 not in the context of COVID, in other contexts — the
 13 coming together of employer organisations and trade
 14 union organisations and also simply because it was our
 15 business to ensure that that group was operating as
 16 effectively as it could be from our perspective.
 17 Within a couple of weeks, I would say, my
 18 engagement — I was always party to the minutes and
 19 various correspondence that took place. It was clear to
 20 me that our three lead local government unions and the
 21 education unions were engaging fairly intensively on
 22 that. It didn't mean — because there were a variety of
 23 vehicles through which issues could be raised, that
 24 didn't mean that on occasions information wasn't given
 25 to me which, through the COVID-19 Group, then found its

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1 way to Government, but on a day-to-day basis the unions
 2 were very, in my view, well prepared and well informed
 3 and able to take that forward, allowing me, as you
 4 suggest, with very scarce STUC resources, to concentrate
 5 the majority of my activity elsewhere.
 6 Q. In your early meetings with the Scottish Government,
 7 before restrictions were put in place but when it was
 8 clear that they were coming, were you able to raise
 9 concerns that your members had about what was going to
 10 happen and perhaps how prepared organisations were?
 11 A. I would hesitate to — I think we were able to. I would
 12 hesitate to say that we had sufficient information
 13 ourselves at that point to anticipate anything like the
 14 depth and longevity of the crisis. So I would
 15 characterise it as a mutual recognition that we would
 16 need to talk and talk again soon rather than the raising
 17 of substantive issues. I do recall on 4 March us
 18 turning up with hand sanitiser because it had begun to
 19 be suggested that measures would need to be put in
 20 place, but we weren't at a position at that stage to
 21 define what actions there would be; rather, the form of
 22 communication and engagement that we foresaw being
 23 required going forward.
 24 Q. And I presume the response was quite positive from the
 25 Government's side?

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1 A. Yeah, I would characterise it as extremely positive at
 2 that stage in terms of engagement.
 3 Q. Thank you. You mention at paragraph 30 that the
 4 Fire Service started advising members not to attend
 5 large-scale public events and others started to ask
 6 about whether they should be issuing messages. How
 7 did you deal with that?
 8 A. So in a sense this is an anecdotal example of how we, as
 9 a movement, were becoming aware. This pertained to
 10 a conference that we were holding in late February and
 11 we were aware enough at that stage that things were on
 12 the move in terms of potential adaptations and workplace
 13 action without obviously having a clear picture of what
 14 that would look like. At that conference we were
 15 sufficiently concerned to take a decision, which clearly
 16 we wouldn't have made now, that that conference could go
 17 ahead but we were already looking at the environment of
 18 the room and the distance that would be required between
 19 participants. We heard at that stage that members of
 20 the Fire Brigade Union, who had previously registered to
 21 attend the conference, had been instructed that they
 22 shouldn't be attending such gatherings. So in a sense
 23 that was certainly my first inkling that there was going
 24 to be the requirement for a wider public sector health
 25 response.

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1 Q. Thank you. Once the lockdown and pandemic restrictions
 2 were put in place, what was the immediate impact on the
 3 STUC and your ability to carry out your functions?
 4 A. Are you talking internal or organisationally?
 5 Q. Both really.
 6 A. I mean, organisationally we wanted to respond quickly.
 7 We vacated our office very quickly. We put in place,
 8 I think swiftly, guidance for staff and support in terms
 9 of their own working environment or their new working
 10 environment. We had to move quite quickly obviously to
 11 adapt to the fact that we did need a lot of engagement,
 12 both with our affiliates and Government, and obviously
 13 we're no longer going to be doing that in person, so we
 14 moved to investigate other forms of communication, the
 15 ones we now — Webex, Zoom and others that we now use
 16 quite regularly. So we were affected, but I think we
 17 moved fairly efficiently or as efficiently as I would
 18 have hoped to funding other forms of communication and
 19 ways to engage with our members and Government.
 20 Q. You mentioned in your statement that two main areas of
 21 focus for you were your role as Government liaison and
 22 also the issue of outward communication with members.
 23 Can you firstly tell us about your role as Government
 24 liaison and how that changed over the course of the
 25 pandemic?

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1 A. Yes. So I wasn't --- initially my job description
 2 wouldn't have included being the first point of contact
 3 with the Government. That would have been my
 4 colleague's policy area, a policy officer, but she
 5 subsequently left our employment and I moved into that
 6 primary role. Having said that, it was all hands on
 7 deck and obviously with considerable years of Government
 8 engagement and contact with Government, I guess I played
 9 a pretty intensive role even before the point when it
 10 became my --- for a number of months --- my primary role.

11 Q. Was the main sort of change really just being online for
 12 these communications or was there a difference in the
 13 quality, the frequency, the issues you were able to
 14 raise, access to individuals?

15 A. Yeah, I mean there was an exponential growth in the
 16 number of issues that we had to raise obviously and
 17 therefore the frequency of that engagement. So you've
 18 heard about set piece engagements that we undertook
 19 twice a week with the Cabinet Secretary, Fiona Hyslop,
 20 but almost on a daily basis from the point that that
 21 began I would have been in contact with our Fair Work
 22 liaison officials, who were our first point of
 23 contact --- although even those points of contact grew
 24 over the months, but they were our first point of
 25 contact. And I would --- barely a day would go by in

1 those first months where we weren't in daily contact
 2 with our liaison contacts.

3 Q. Can you also please tell us about your role in
 4 communicating with members and how that changed with
 5 the onset of pandemic restrictions?

6 A. Yes. So, I mean, we have --- as the STUC, we're not
 7 actually a trade union. We are, as you know,
 8 a representative of the trade unions. Most of the
 9 direct contact with members would normally be channelled
 10 through our respective unions, so they obviously are the
 11 first point of contact with members and, again, as
 12 you've heard, we had a system for elevating those, using
 13 standard trade union democracy of members talking to
 14 reps, reps talking to officers, officers talking to
 15 senior officers and us convening those.

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

1 terms, using social media, using other media functions,
 2 we've attempted to communicate to workers and for
 3 workers some issues where trade unions, for obvious
 4 reasons, if not representing them, can't. So at the
 5 same time as developing these more, I guess, formal,
 6 understandable systems for communicating the views of
 7 members, we also wanted to use social media, our website
 8 and other functions in order to assist the wider
 9 workforce who didn't enjoy trade union protection.

10 Q. Can you give us some examples of the types of issues
 11 that you addressed through social media?

12 A. Yes. So the very first one which we elevated was in
 13 relation to --- not directly relevant, I guess --- to
 14 health and social care, the lockdown itself and the move
 15 away from work in all but essential workplaces. So we
 16 were made aware, through social media, through phone
 17 calls and others, of some fairly significant employers
 18 in a range of sectors --- but retail would be a good
 19 example, hospitality would be another --- who simply
 20 hadn't listened to the guidance. So even over that
 21 first weekend and throughout the week we were receiving
 22 multiple reports, and we were publicising --- where we
 23 were clear that breaches were taking place, we were
 24 publicising these in order obviously to protect the
 25 workers concerned but also to raise consciousness and

1 awareness of the fact that, you know, this was a serious
 2 situation and people had better be listening to the
 3 guidance.

4 Q. Did you hope that, by sharing on social media
 5 information about organisations that were listening,
 6 that those organisations might take notice and maybe,
 7 realising it's being highlighted, take different action?

8 A. Yes, and, being frank, it's not an unusual tactic or
 9 strategy for us to do such things. As I say, where you
 10 don't have that direct role of a trade union within
 11 a workplace, then you have to find other ways to do your
 12 best to ensure compliance and what we describe as "good
 13 employer behaviour". So we don't have any compunction,
 14 if we think the case is justified, in publicising the
 15 fact that one workplace or one particular sector are
 16 falling short of expectations and, in our view, that was
 17 particularly important in the context of the pandemic
 18 when lives were at risk.

19 Q. Thank you. Did you also raise that issue with the
 20 Scottish Government, that despite guidance there seemed
 21 to be so many organisations that aren't following that,
 22 and, if you did, what was the response?

23 A. So I think the initial response was positive from the
 24 Government in the sense that they valued the fact that
 25 we were able to provide that intelligence, whether it's

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 A. I mean, no. I would say as a general observation that
14 probably the general public think that the trade union
15 movement has far more employees and far more resources
16 than it really has. The STUC itself has around
17 30 employees but only 15 of those would be allocated to
18 what we call "core activities"; that's to say activities
19 which aren't externally funded and therefore applied to
20 a particular activity.

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

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

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

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

1 I'm sure you'll hear from people much closer to that.
 2 My work -- and this started, I guess, in the late
 3 2000s -- was in a specific forum that we created. It
 4 was called -- I can't remember its name, but it was
 5 a coming together of CCPS, which is Community Care
 6 Providers Scotland, various other care-providing or
 7 voluntary sector organisations and the unions who were
 8 involved in the voluntary sector and social care. We
 9 jointly identified at that time not just pay but other
 10 terms and conditions, such as pensions, which were sadly
 11 poorer in the voluntary and private sectors than it was
 12 in the direct sector.

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

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

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

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

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

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

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

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

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

11 Q. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 You know, it's an employer responsibility under the
17 1974 Health and Safety Act to ensure that workers are
18 consulted on health and safety issues. Unfortunately,
19 generally speaking, that's a rather large failing
20 amongst Scottish employers, but in the pandemic that
21 became even more concerning.

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

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

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

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

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1 workplace health and safety is a slightly difficult
 2 issue. Health and safety essentially, normally, with
 3 the exception of particularly some home-working
 4 arrangements, stops at the door of the workplace. So
 5 we're involved in various campaigns, for instance, with
 6 hospitality workers, to say that employers should take
 7 cognisance of how their workers get home late, but it's
 8 a contested area. Transport work doesn't sit within the
 9 normal understood health and safety landscape or the
 10 1974 Act. As I say, we don't think that's right but
 11 it's the existing situation.

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

25 So we felt that — and we did ask the

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

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

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

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

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

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

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1 that point to resist the alteration of the statement to
 2 take those protections away and we were ultimately
 3 unsuccessful, so that would count as one of the
 4 significant disappointments, I think, in terms of the
 5 way that the Government responded to our entreaties.
 6 Q. Do you think that was due to the requirement to balance
 7 business and the economy with workers ---
 8 A. I think we would generally be critical of sickness and
 9 absence management policies and the way they've
 10 developed over the period. There's been a move towards
 11 limited and quantified absence in terms of general
 12 illness which we don't think is particularly good for
 13 workers, the service or the economy. I think, if
 14 someone is sick, they're sick and they shouldn't be
 15 penalised for that. Sorry, I've actually lost the drift
 16 of the first part of your question there. Sorry.
 17 Q. I asked whether things had improved and whether you
 18 thought --- or not improved and whether you thought it
 19 was down to business ---
 20 A. Sorry --- yeah, so in this case, if we term "business" as
 21 the delivery of public services, then clearly --- and
 22 this is a consequence, frankly, of austerity, pressure
 23 on budgets. We've seen harder and harder absence
 24 management policies being introduced and HR managers who
 25 do not want to have people off for significant periods

1 of time when they're unwell and would either rather
 2 manage them out of the workplace or see them have
 3 financial detriment. So being frank with you, there was
 4 pressure coming on Government from public sector HR not
 5 to implement this because they felt it would be
 6 difficult for their staff management policies. We would
 7 take the opposite view and say, "Don't come to work if
 8 you're going to make other people sick or yourself
 9 sicker".
 10 Q. Thank you. Can you tell us a bit more about the role
 11 that the STUC played in interpreting guidance for
 12 workers and assisting workplace health and safety
 13 officials ?
 14 A. Yes, so obviously workplace health and safety officials 's
 15 initial and first go-to place is their own union, who
 16 operate networks, advance democracy and all the rest of
 17 it, but there's also --- for want of a better term,
 18 there's a lot of expertise across health and safety
 19 officers and people --- there's thousands who do a very
 20 good job. There's maybe hundreds for whom it is a bit
 21 of a passion, they've become experts very often in their
 22 own time and they're not paid directly to do these
 23 roles. So we moved to create what we described as
 24 a "health and safety community", so that, you know,
 25 essentially a community of health and safety officers

1 across a whole range of industries and a whole group of
 2 unions could talk together, and that really is down to
 3 the talking --- very often that's about application. So
 4 you've got --- and this is I guess what you mean by
 5 "interpretation" --- you've got what's written down and
 6 then you've got how that actually plays out in the
 7 workplace when you're having negotiations with
 8 management or conversations with workers. Inevitably
 9 there's going to be grey areas, inevitably there's going
 10 to be misunderstandings and the need for interpretation.
 11 So we saw our job, you know, advised by this kind of
 12 expert group, for want of a better term, to look into
 13 what some of those were and therefore to have, if you
 14 like, parallel guidance. Whether it was on health and
 15 safety or other issues such as furlough, we could say,
 16 "Actually this is what it says, but this is what it
 17 probably means and this is what you might want to do in
 18 this circumstance to deal with this problem". So in
 19 a sense it was problem solving between what was written
 20 down on the page and how people with expertise were
 21 looking to apply that on the ground.
 22 THE CHAIR: Ten minutes, Ms Bahrami.
 23 MS BAHRAMI: Thank you, my Lord.
 24 Did you notice differences between the different
 25 types of workplace in terms of willingness to adapt to

1 the guidance and take your views on board?
 2 A. Undoubtedly. I should maybe have said this before, but
 3 we had a range of employers that contacted us, and the
 4 very fact that they were contacting us was a pretty good
 5 start. So there were undoubtedly employers who were in
 6 the vanguard of doing exactly the right thing. That
 7 included some small businesses we were contacted by.
 8 I wouldn't particularly say employers in the social care
 9 sector --- I think they had other places to go --- but
 10 there was enormous differences in terms of application,
 11 in terms of communication, in terms of willingness, to
 12 engage with workers and unions, and we could tell that
 13 by the people who actually wanted to know what we said
 14 rather than wanting to ignore us.
 15 Q. Now, you speak about people in social care going into
 16 work when they suspected they had COVID. Why was that
 17 and did you see the same in the NHS?
 18 A. As the STUC --- and I obviously hope the Inquiry can rely
 19 also on the evidence of the unions who directly
 20 represent the workers --- in the STUC's experience and
 21 the information that we got, either from our affiliates
 22 or directly from workers, there was a particular issue
 23 in social care, and I think that that was largely ---
 24 some of it may have been down to the undoubted
 25 dedication of health and social care workers, in this

1 case probably misplaced, but largely speaking it was
 2 economic. People simply could not afford not to go into
 3 their work and we heard that frequently. You know, it
 4 was sometimes really, really quite distressing to have
 5 to tell people that our absolute advice was that they
 6 shouldn't go into work when we knew that that was
 7 causing them, you know, enormous concerns in terms of
 8 their income. But the economic issue and the pay issue
 9 was absolutely enormous in terms of how people were
 10 relating to us their decisions to go into work.
 11 Q. And you mentioned the Social Care Support Fund that had
 12 been introduced and the fact that employers had to apply
 13 for funds themselves. Did the introduction of that fund
 14 alleviate the situation — the problem in the social
 15 care sector?
 16 A. Partially. Again, I haven't got statistics on this, but
 17 our sense would be undoubtedly partially. I think if it
 18 had been applied more directly with less red tape,
 19 I think if it had been clearer which workers qualified
 20 and which didn't and if a very — a much stronger line
 21 had been taken with employers who didn't apply it at
 22 all, then it would have been better. But, you know, as
 23 a concept and in terms of impact it was definitely
 24 a very positive thing and something that we worked very
 25 hard to achieve. But, as with everything, you've got

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1 the idea and then you've got the implementation and
 2 there definitely could have been better systems of
 3 implementation and probably wider awareness—raising
 4 amongst the social care staff, remembering that a large
 5 proportion of them weren't unionised, of what they could
 6 expect.
 7 Q. You mention self-employed health and social care
 8 workers. Were they able to access that fund or was the
 9 impact just ongoing on them?
 10 A. No, I mean, our understanding is that they weren't, so
 11 you had to be a direct employee. There were also — and
 12 again I couldn't attest or remember exactly what the
 13 ultimate impact of that was — but there was also
 14 a great deal of confusion about part-time workers and
 15 how the fund would be applied to part-time workers too,
 16 so there were definitely some bumps in the road.
 17 Q. Thank you. Moving on briefly to the lessons you believe
 18 should be learned, you state that it's important for
 19 joint boards who govern health and social care and the
 20 NHS to have local plans as well national plans. What
 21 issues did you see arise where this wasn't the case?
 22 A. Well, it's very different to operate either as a health
 23 board or a joint board in the Highlands than it would be
 24 in Glasgow but also the restrictions were different in
 25 different areas at different times so you couldn't have

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1 a single response given that — obviously all
 2 key workers were expected to work in the environment,
 3 the geographical environment, in terms of other people
 4 travelling, the time it took, car-sharing, availability
 5 of public transport. There's a whole range of issues
 6 that came up in one area that wouldn't necessarily be
 7 coming up in another area if for no other reason than
 8 just because of sheer geography and where the
 9 infrastructure was and who they had to reach. The
 10 extent of home visits in social care in one area would
 11 be different and certainly the travel time.
 12 So what I was trying to get across there is, if
 13 we're talking about pandemic planning in the future, you
 14 have to have — obviously you have to have
 15 NHS-wide/social care-wide planning, and obviously that's
 16 why we think much more integration and public ownership
 17 of social care is absolutely vital, but that doesn't
 18 preclude the need for people also to have local plans
 19 which have to be sensitive in the future to particular
 20 geographical, demographical and other considerations.
 21 Q. Thank you. Finally you state that:
 22 "There was great confusion during the pandemic
 23 between the role of Health and Safety Executive and the
 24 role of local authority health and safety regimes. It
 25 was complicated further when the HSE were taking top

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1 level UK wide and then Scotland wide positions. The
 2 actual inspection regimes are different from that.
 3 "Our position is that the HSE should have a devolved
 4 function just pertaining to Scotland. There should be
 5 very clear mechanisms for the Scottish Government to
 6 take a view across the local authority and inspection
 7 regimes about whose responsibility is what and make sure
 8 it is very clear to everyone."
 9 What issues arose in relation to the HSE and how
 10 would such a devolved function address those issues in
 11 your view?
 12 A. Well, the health and safety enforcement regime will, by
 13 its nature, always be somewhat complicated, so some of
 14 this is reflected in England as well. But even within
 15 health and social care you have a different primary
 16 enforcement authority depending on whether it's in the
 17 local authority or in the private sector, so local
 18 authorities inspect private care homes, the HSE inspects
 19 local authority care homes, so already there's
 20 a difficulty there. But when you add in the fact that
 21 the — and I should say you can reference lots and lots
 22 of protocols between the HSE, the Care Inspectorate, the
 23 HSE and local authority enforcement officers. There's
 24 loads of protocols just to deal with the very busy
 25 landscape that already exists. But in the case of the

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

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

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

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

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

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1 MS BAHRAMI: Great. Thank you very much.
 2 A. Thank you.
 3 THE CHAIR: Yes, thank you, Mr Moxham. 12.05 for the next
 4 session.
 5 (11.50 am)

(A short break)

7 (12.07 pm)
 8 THE CHAIR: Good afternoon, Mr Caskie.
 9 MR CASKIE: Good afternoon, my Lord.
 10 THE CHAIR: When you're ready, Mr Caskie.
 11 MR CASKIE: Thank you, my Lord.
 12 MR JOHN CAIRNEY (called)
 13 Questions by MR CASKIE
 14 MR CASKIE: Would you tell the Inquiry your full name,
 15 please?
 16 A. John Cairney.
 17 Q. And I understand that you've provided a witness
 18 statement to the Inquiry for its assistance.
 19 A. Yes.
 20 Q. For our records, the witness statement is reference
 21 SCI-WT0449-000001. The beginning of the statement is on
 22 the screen.
 23 Before you signed the statement, had you read over
 24 it?
 25 A. I had, yes.

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1 Q. Is the content true?
 2 A. Yes.
 3 Q. And do you wish to adopt that as part of your evidence
 4 to the Inquiry today?
 5 A. Yes. There's only one small change and it's just the
 6 fact that HMP Kilmarnock is now in the public service,
 7 so that's now 14 establishments rather than 13 I've
 8 referenced in the document.
 9 Q. Okay. At paragraph 1 you provide details of your
 10 personal background and I understand that you've been
 11 a prison officer for a while.
 12 A. Yes, since 7 January 2002.
 13 Q. You also hold an elected position?
 14 A. Yes, I'm elected to Scottish National Committee chair
 15 for the Prison Officers' Association Scotland.
 16 Q. And the Prison Officers' Association is effectively the
 17 prison officers' trade union; is that correct?
 18 A. Yes, we're the only recognised trade union in the
 19 Scottish Prison Service for uniformed officers.
 20 Q. Did you hold that post throughout the period of COVID
 21 lockdowns and so on?
 22 A. I didn't, no. I was just on the Scottish National
 23 Committee for the beginning and I got elected as we
 24 probably came out of lockdown 2.
 25 Q. But you have knowledge of what the situation was during

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

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

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

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

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

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

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

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

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1 Q. The impression that I get from your evidence is that it
2 really sobered people up, if I can put it that way —
3 A. Yeah, absolutely.
4 Q. — and people were then taking it even more seriously?
5 A. Yeah. As I say, it became real because it happened
6 effectively, if you want to call, on your doorstep, but
7 it happened and it happened, you know — so, when you
8 know these people and you know people are affected by
9 these people, it just refocuses, you know, your mind of,
10 "No, this is real. This is a real thing that's
11 happening, so, you know, we have to follow all the
12 guidance that we possibly can".
13 Q. We heard evidence from Mr Purdie that he was given
14 information from a projection that perhaps as many as
15 600 prisoners might die. Was that information shared
16 with you?
17 A. Yes, it was probably one of the very first NCRG,
18 National Coronavirus Response Group — NCRG — it was
19 probably one of those first ones that — that's when
20 these kind of predictions were coming out. Yeah, it's
21 no a number that I probably would have even
22 contemplated, you know with, kind of — but yeah.
23 Q. Mr Purdie described it in his evidence to the Inquiry,
24 the figure, as "overwhelming". Was that a view that you
25 shared?

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

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

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

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

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

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

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

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1 A. If I'm being honest, that would have probably been dealt
2 with more at a local level. I wouldn't have really had
3 sight of that, you know, at the national group. That's
4 something I would expect our local branch committees to
5 have done so I don't have any kind of feedback as to was
6 it successful or was it not.

7 Q. Do you know if there was any positive action by SPS in
8 terms of seeking to identify staff members who might
9 require additional protection prior to the shielding
10 letters?

11 A. If I'm being brutally honest, I think it was more
12 reactive. You know, I think it was more a member of
13 staff going to them, you know, to say, "Here's what
14 I have" or "Here's what it is", but, as I say, we were
15 quite chaotic at the beginning, you know, so I would
16 imagine everything was done quite quickly or — you
17 know, the initial support and care that was needed to go
18 in to the individual case.

19 Q. What about individuals who didn't have health problems
20 but who had family members who would require to shield?
21 How would that be dealt with?

22 A. That was a bigger problem, you know, when the shielding
23 letters — even when the shielding letters went in
24 because the SPS were of the mind that, "Unless you have
25 the shielding letter, then our expectation for you is to

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1 come to your work", because, you know, the letter by
2 default didn't extend to them. So that's probably where
3 more trade union interaction was needed with the
4 employer, to try and actually explain to them that — an
5 example being we had someone's wife who was going
6 through intrusive cancer treatment and had an open wound
7 and had a shielding letter to say they can't go, but the
8 expectation was that that member of staff would work.
9 What we were trying to explain to the employer was it's
10 impossible — it's unreasonable to ask that person to
11 come to work because they're taking home or potentially
12 taking home something that could directly impact their
13 wife, you know, so that was quite a challenge.

14 Q. And you spoke earlier about what might be regarded as
15 generally poor health amongst the prisoner community.

16 A. Yeah.

17 Q. Do you know anything about increased vulnerability to
18 infection by COVID amongst the prisoner community?
19 I mean in the sense that, if they're more likely to get
20 COVID, then your member with the wife who requires to
21 shield is more likely to be exposed to the virus. Can
22 you say a bit about that?

23 A. I don't really have much to say on that because I don't
24 really have the evidence that would support anything
25 that I could probably add to it, so apologies for that.

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1 Q. Okay. The next thing I want to ask you about is what
2 you've headed "Health and Safety Impacts" but in reality
3 most of the statement relates to control and restraint
4 training.

5 A. Yeah.

6 Q. Tell us about that.

7 A. Well, what happens is we all get initial training for
8 control and restraint and then every year we have to do
9 an annual refresher, you know, to keep us ticking. So,
10 because of the restrictions that were in place, the
11 decision was taken that SPS will extend people's
12 competency from a one-year window to a two-year window.

13 Q. Right. Now, you said you get the refresher training —
14 "to keep us ticking" is the phrase that you used.

15 A. Yeah.

16 Q. Were there other reasons — were there legal reasons for
17 the frequency of the refresher training?

18 A. It's set up in the training parameters that every year
19 you have to go through an annual refresher, so it's
20 there and the SPS audited against — you know, it's part
21 of the key performance indicators, so as in, "You will
22 make sure that you have this percentage of staff trained
23 in control and restraint every year".

24 Q. During COVID that was extended rather than annually to
25 become biannually?

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1 A. Yes.

2 Q. You also refer to the possibility of it becoming every
3 three years.

4 A. Yeah.

5 Q. What was the reaction to that?

6 A. That didn't land — it didn't land well with anyone,
7 quite honestly, you know, because first of all our
8 membership — we identified or quite quickly seen that
9 we need to keep the refresher going, we need to keep
10 training people and keep the refresher going, and the
11 SPS were no willing to extend it to three years because
12 they had a corporate risk, I believe, that they would
13 have been concerned about as well.

14 Q. In terms of this annual refresher training which became
15 for a period biannual, has it now gone back to annual?

16 A. Yes. Yeah.

17 Q. Is that seen as a tick-box exercise or is it actually
18 something that the staff want to partake in, that they
19 think it's important?

20 A. No, it's absolutely important. It's a massive part of
21 our job and it's a massive part of our role, so it's far
22 from tick-box. You know, it's something that our
23 membership know they require to have, you know, in order
24 that they do their job properly if and when, you know,
25 it becomes volatile.

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1 Q. Tell me about — I'll come back to in lockdown, but
 2 coming out of lockdown there obviously was a backlog —
 3 A. Yeah.
 4 Q. — of training needs for control and restraint. How was
 5 that dealt with?
 6 A. What had happened was, because we went on to a COVID
 7 roster, a COVID attendance pattern, it means we had more
 8 staff, so as we were coming out and the shielding
 9 letters stopped — so we actually had a bigger bank of
 10 staff. So rather than going back to the traditional
 11 attendance pattern straightaway, they utilised that core
 12 of staff to actually get as many people back through the
 13 training that we could and then, once we had up to
 14 I think it's 85% — I could be wrong but it's about
 15 85% — that's when we then went back to traditional
 16 attendance patterns. So we managed to catch the
 17 training in for our members in that period.
 18 Q. You spoke about the change in work pattern and we heard
 19 evidence from Mr Purdie that it became 8.00 in the
 20 morning to 6.00 at night. You spoke about, "We've got
 21 more staff". Did you actually get more staff or was it
 22 simply the change of working patterns meant that there
 23 was more staff available?
 24 A. It was a change in working patterns.
 25 Q. Was there an increase in the number of staff during

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1 COVID?
 2 A. No.
 3 Q. Was there a reduction in overall staffing levels?
 4 A. Not more than pre- or post-COVID time.
 5 Q. You say at paragraph 30 that there was a mixed response
 6 from your members about the change in working patterns.
 7 A. Yeah.
 8 Q. Some people wanted to go back to the old patterns and
 9 some people wanted to stay. Can you tell me what the
 10 arguments on each side were?
 11 A. Well, we have staff who like to finish on an early shift
 12 at an early shift time. You know, it's just the way
 13 it's always kind of been in the SPS. A lot of staff are
 14 used to it, they've built their life on it, you know,
 15 they've got childcare arrangements around about it, so
 16 they see that as their attendance pattern.
 17 You know, it's no too damning because, if you go in
 18 at 6 o'clock in the morning or 8 o'clock in the morning,
 19 whatever time, and you're working right way through to
 20 the end of shift, you don't have a break, you don't have
 21 an out. So if you've got a prisoner that's railing up
 22 at 8.00 in the morning, you've got him till 6 o'clock at
 23 night, whereas if you're on an attendance pattern, you
 24 know, that — you're either coming in back shift or
 25 you're finishing an early shift, there's that natural,

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

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1 you know, quite a bit of money per month because it
 2 wasn't there.
 3 Q. Were management slow, in your view, in reverting to the
 4 traditional work pattern because obviously they were
 5 saving money?
 6 A. I don't think they would have used the excuse of or the
 7 reason of saving money. I think it was more — we had
 8 disagreements over it — let's be frank, we had
 9 disagreements over it, but the SPS had said that they
 10 don't believe we were in a position to exit the
 11 attendance patterns any sooner because they wanted to
 12 get the role training back up and running. They wanted
 13 to make sure that there wasn't going to be a third or
 14 a fourth lockdown, you know, that they were trying to
 15 come out at before they came in. We were quite honest
 16 with them, that we wanted to come out a lot sooner. Our
 17 membership were telling us they wanted out a lot sooner.
 18 So it was quite a challenge, you know, to actually get
 19 out of it.
 20 But I don't think there was ever a motive to keep us
 21 there because a commitment was given at the start that
 22 this was only going to be a short-term change. Short
 23 term ended up being about two years, but we all thought
 24 we were going to be in the house for four weeks.
 25 Q. You talk about the National COVID Recovery Group and

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

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

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

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

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1 organisation, you kind of do everything in teams,
 2 I don't mean Teams virtually. I mean, you know, as
 3 a collective in teams. You know, you do that, you work
 4 together, you're working as a section within our
 5 college. To actually go and then be told to separate
 6 out, it was quite alien to them. It was quite difficult
 7 and quite challenging, you know, for folk to build up
 8 the relationship, the rapport with each other, because
 9 it didn't exist.
 10 Q. Now, we saw, in Mr Purdie's explanation about his work
 11 history, that he spent quite a long time acting up into
 12 promoted posts and I understand that's a common thing
 13 within the Prison Service; is that correct?
 14 A. It is common but getting a lot better. They're filling
 15 a lot of roles now substantively, which is good.
 16 Q. And during COVID lockdowns, was there a problem with
 17 people being stuck acting up?
 18 A. Not that was highlighted to me. You know, it's never an
 19 issue that came to myself, you know, with it, but
 20 business kind of moved differently in those times so
 21 I don't really know the best way to answer it. But it
 22 was never a huge issue that came across my desk
 23 certainly.
 24 Q. Is there a distinction to be drawn in terms of
 25 impacts — I'm looking now at paragraph 48 — between

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1 operational staff such as your members and others who
 2 work at prisons?
 3 A. Yeah, this is arguably the single biggest legacy issue
 4 that we have from COVID in here because our members
 5 can't work from home. It's impossible. You can't take
 6 20 prisoners home with you. You know, you can't do it.
 7 But our non-operational colleagues, you know, have got
 8 that opportunity to work from home, you know, and they
 9 actually do. They downscaled our headquarters, for
 10 instance, because there was no need because everyone is
 11 now remote with remote access and working, you know,
 12 from home, where, as I say, 100% of the time our members
 13 are in establishments working, you know, with —
 14 Q. Has that created a degree of difference within the
 15 organisation?
 16 A. It's created a difference for us as a trade union in how
 17 we're looking to be identified by the employer, you
 18 know, because it's quite clear that the roles are
 19 different — our pay scales are the same but our roles
 20 are extremely different, you know, in what we do. As
 21 a trade union, we are pushing for the employer to
 22 recognise that.
 23 Q. During COVID, what was the impact on the association
 24 itself? How, for example, did the workload of elected
 25 officials alter during that period?

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1 A. What had happened was our local officials were fine
 2 because they were in and they were doing their job all
 3 locally. At national level, as I say, I was sat on
 4 a coronavirus response group but a lot of my colleagues
 5 on the Scottish National Committee started to go into —
 6 back working in prisons to help out. But it actually
 7 had a detrimental effect on us as a trade union because
 8 I'm coming out of COVID meetings and I'm needing a table
 9 steer for where we're going to go and how we're going to
 10 position ourselves with a change and, when they were
 11 working in establishments, trying to help out, it was
 12 kind of falling down. So we quite quickly had to say,
 13 "No, we need you back out because we need to run the
 14 executive, you know, and making decisions at that level
 15 to impact everyone rather than one or two people going
 16 in to help out".
 17 Q. Now, a recurrent theme in the statement that you've
 18 provided — I'm not going to take you to a particular
 19 paragraph, but a recurrent theme is that prison officers
 20 are not recognised or were not recognised as
 21 key workers.
 22 A. Yeah.
 23 Q. Can you say something about that?
 24 A. Yeah, that's the reality of what it is. You know, our
 25 membership are classified as emergency workers and

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1 it's quite shocking that that's the case, quite frankly,
 2 because the nature of the job we do. As I say, people
 3 lost their lives, but low-level stuff for us was we're
 4 watching nurses and police officers, firefighters, going
 5 into supermarkets early and, you know, being able to
 6 jump queues. Our membership, for me, are that same
 7 mould. They're emergency workers, that's what we do.
 8 You know, we're front-line staff dealing, you know, with
 9 what we deal with. But that was never extended to us.
 10 It was quite a bad taste again for our membership
 11 because — not only in this but in pension fights and
 12 everything, there's just not that recognition of what we
 13 actually are.
 14 Q. What was the issue about pensions?
 15 A. We're going through a campaign now to reduce our pension
 16 age back to 60. Our pension age is now 68 so they're
 17 expecting operational prison officers to work to 68,
 18 whereas the ringfence of police, fire brigade, the army
 19 and all that, left us out. So we're trying to right
 20 that wrong. It goes as far back as 2011.
 21 Q. Okay. Now, I haven't asked, because I don't need to
 22 ask, about the vaccination programme for prisoners.
 23 A. Yeah.
 24 Q. What we were told in essence is that prisoners were
 25 dealt with in the same way that the general public were

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1 dealt with so that those 80-plus were the first group
2 assessed.
3 We've also seen evidence that prison officers are in
4 a high risk environment. Was there any concession in
5 terms of prioritising vaccinations for prison officers
6 who wanted it?
7 A. No. Short answer: no, but a content to it is, as
8 an NCRG, we did go and we did take it to, again, Health
9 Protection Scotland, Scottish Government, NHS inform,
10 because we were of the opinion that we actually should
11 be. I think we were maybe five times more likely to
12 contract COVID because of the environment we worked in,
13 bearing in mind that's five times more likely to
14 actually pass it on as well.
15 So the decision to exclude us was one that --- it
16 made no sense but we had to go through the vaccine
17 programme the same as everyone else did ---
18 Q. So you weren't given any prioritisation ---
19 A. No.
20 Q. --- because of your increased risk?
21 A. No.
22 Q. Can I ask you one more thing about the guidance? You
23 obviously saw lots of guidance and you said to us that
24 that was not specifically directed at people in prison.
25 How did you feel about not being given specific guidance

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1 for the environment you were in?
2 A. Frankly, it was madness. I mean, how they could expect
3 us to operate from guidance that wasn't specific to the
4 environment that we worked was --- it made no sense. It
5 was a massive source of frustration to us that --- again
6 it's, "Are we forgotten here? Do you no know prisons
7 exist?" Therefore, "Just let them deal with that
8 guidance". Our members were, and all staff, were living
9 this really concerning, really difficult and challenging
10 and worrying time and it's as though we were forgotten.
11 "Just give them that guidance and let them tie to that".
12 It's impossible. You know, how we came through that and
13 how the organisation came through that in a state that
14 wasnae worse than what it was is absolute --- a huge
15 credit to everybody involved.
16 Q. At paragraphs 54 and 55 of your witness statement, you
17 describe your hopes for this Inquiry. Could you read
18 those paragraphs for us, please?
19 A. "Genuine recognition that our members worked in
20 a complex, challenging and dangerous environment and
21 [we] were truly on the front line at great personal
22 risk; and that they were flexible, adaptable and
23 entirely committed to getting everyone through ... the
24 most difficult times in recent history [and]
25 "Genuine recognition for our members as emergency

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1 workers."
2 Q. And those are your organisation's hopes for this
3 Inquiry?
4 A. Absolutely.
5 Q. Thank you. Those are all the questions I have for you.
6 Is there anything important that you think we haven't
7 covered that you want to say?
8 A. No, everything's covered for me. Thank you.
9 MR CASKIE: I'm very grateful.
10 THE CHAIR: Thank you very much. Thank you, Mr Cairney.
11 MR CASKIE: Thank you, my Lord.
12 A. Thanks, my Lord.
13 THE CHAIR: 2 o'clock for the next session.
14 (1.00 pm)
15 (The short adjournment)
16 (2.00 pm)
17 THE CHAIR: Good afternoon, Mr Gale.
18 MR GALE: Yes, good afternoon, my Lord. The next witness,
19 indeed the final witness today is Paul Arkison.
20 MR PAUL ARKISON (called)
21 THE CHAIR: Good afternoon, Mr Arkison.
22 A. Good afternoon.
23 Questions by MR GALE
24 MR GALE: Mr Arkison, your full name, please?
25 A. Paul Stuart Arkison.

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1 Q. You have provided the Inquiry with a statement, the
2 reference to it is SCI-WT0435-000001, and you are giving
3 evidence on behalf of your union, the GMB.
4 A. Indeed, yes.
5 Q. You've also provided us with a number of letters,
6 principally letters that have passed between your union
7 and in particular from your regional secretary,
8 Gary Smith, or yourself and were addressed to ministers,
9 either the First Minister and/or the Cabinet Secretary
10 for Health, together with some letters which were sent
11 out to your members and some which passed between MSPs.
12 You've put those letters at the end of your statement
13 and we're very grateful for those. Those will all be
14 taken account of as we're progressing on.
15 You're agreeable I think to your statement being
16 published and also the evidence that you give today
17 being recorded?
18 A. I am.
19 Q. Thank you. Can I also say at the start that there are
20 certain parts of your evidence --- certain parts of your
21 statement, rather --- particularly those which relate to
22 economic hardship encountered by your members, that have
23 been passed to my colleagues in the Inquiry who are
24 looking specifically at issues relating to welfare, so
25 you will no doubt be hearing from them --- if you haven't

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1 already, you will be hearing from them.
 2 You've provided an overview of the union, the GMB.
 3 You are a senior organiser with the union and that's
 4 a role that you've occupied for the past five years, but
 5 you've worked for the union for around 16 years in
 6 total?
 7 A. Correct.
 8 Q. You explain in paragraph 3 that you head up the union's
 9 organising team. Can you explain what that does and how
 10 it operates?
 11 A. Yes, certainly. As you rightly say, I'm the senior
 12 organiser with GMB Scotland and the team that I head up
 13 is classed as our organising team. We would have areas
 14 of responsibility that we would be working on. We would
 15 also look at driving issues that would bring in new
 16 members, dealing with those. We are usually the first
 17 points of contact when people would come to the trade
 18 union and we would act on them appropriately and
 19 represent our members in the best way possible.
 20 Q. Who reports to you?
 21 A. As in who would be in my team?
 22 Q. Yes.
 23 A. It would be a mixture of organisers, who would have
 24 responsibility for dealing with employers, assistant
 25 organisers as well, and I also work with support staff,

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1 clerical and admin staff.
 2 Q. Thank you. I think it's important to note that the GMB,
 3 as the name suggests, is a general union.
 4 A. Yes.
 5 Q. As you explain in paragraph 8, you represent workers in
 6 a number of different sectors.
 7 A. Yes.
 8 Q. You have 60,000 members across all sectors in Scotland
 9 and, as you tell us, the main areas are in local
 10 government services, the private care sector and the
 11 NHS; is that right?
 12 A. Yes.
 13 Q. You make the point that in local government in care
 14 sectors your members are predominantly female --
 15 A. Yes, I would agree, yes.
 16 Q. -- and in manufacturing predominantly male.
 17 A. Yes.
 18 Q. You point out at paragraph 20 of your statement that
 19 your main involvement was in relation to the care sector
 20 and at paragraph 21 you indicate that the relationship
 21 that your union had with certain employers in the care
 22 sector was not of the best, is probably one way of
 23 putting it.
 24 A. Yes, I would agree.
 25 Q. Can you explain why that was?

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1 A. A lot of the private sector employers in care, we
 2 wouldn't have what we would class as formal recognition
 3 agreements, so essentially bringing issues that would be
 4 of concern to ourselves and our members. Where there
 5 was recognition agreements, there were particular
 6 elements you would go through, where you could raise
 7 things at a reasonably low level and work your way
 8 through whatever procedures were in place.
 9 When that wasn't in place with companies where we
 10 had a significant footprint of members, the first port
 11 of call would have to be at whatever level we could find
 12 within the company and sometimes I think employers would
 13 see that as slightly confrontational. They would maybe
 14 suggest that this is the first time they've been made
 15 aware of these concerns and possibly that there wouldn't
 16 be any internal procedures therefore as to escalate
 17 matters through. So in times it could be seen as quite
 18 adversarial and quite confrontational -- I would assume
 19 employers would look upon it like that.
 20 Q. You do say in paragraph 21 that, as a result, there was
 21 a huge amount of mistrust and anger towards these
 22 employers from your members. How did that come about?
 23 A. Members would probably -- would contact us initially
 24 with certain examples of what was going on in their
 25 workplaces and of course our first reaction would be to

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1 look after them, try and provide support and advice.
 2 Sometimes that support would actually be contacting the
 3 employers direct if our members didn't feel that they
 4 had the means to do so or were reluctant to do so.
 5 So we ourselves would be contacting employers and
 6 employers would maybe see -- if they didn't have any
 7 sort of prior relationship with us, they would see that
 8 possibly as someone external coming in to interfere with
 9 their affairs. And I think -- from that point of view,
 10 I think that's when concerns would start to build up and
 11 we didn't -- in some cases we didn't have the best
 12 relationship with employers at that particular time.
 13 Q. Was that across the board or was that in relation to
 14 certain employers?
 15 A. No, I would definitely say certain employers. I think
 16 there is a difference where we can have -- I wouldn't
 17 say it always works out well, but when there's certain
 18 procedures in place and we can see -- and both sides can
 19 recognise then where to bring up certain things, and if
 20 issues can be resolved at a lower level and usually
 21 quickly, that would be the way that we would want to do
 22 our business. But if we didn't have that in place, with
 23 relatively large organisations, then it would take time
 24 and we would have to raise those issues quite directly
 25 with the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 dedication that they had for the people they were
 2 looking after but also the real concerns that they had
 3 about taking the virus back home to their loved ones.
 4 Q. You also, at paragraph 81, provide us again with another
 5 one of your surveys, and this is of private care members
 6 of your union and the impact on their mental health.
 7 Again, this is very early in the pandemic, it's
 8 20 April 2020, and it's one to which you received over
 9 1,000 responses. In terms of the way in which you do
 10 receive responses to surveys you send out, is that
 11 a relatively --- I don't know whether I'd describe it as
 12 a good or forceful response.
 13 A. Yeah, I mean, I think --- you know, I think we would ---
 14 at the time we felt that the responses that we were
 15 getting --- we were confident enough that that was
 16 gathering information that we could release to wider
 17 sources or use it in Government groups --- in
 18 correspondence with the Government. So I think that the
 19 surveys were giving us significant information at that
 20 time that we probably --- as I said earlier, we would
 21 have picked up in workplace visits, but --- and again we
 22 knew there were issues prior to the lockdown, so I think
 23 that's why we acted very quickly at the outset of the
 24 pandemic.
 25 Q. Presumably you reacted by taking the survey because you

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

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

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

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

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

11 Q. The other area in relation to shielding I'd like to ask
 12 you about is what you say at paragraph 70, that:
 13 " ... some employers were persuading members to go
 14 [to] work when they should have been shielding, to [make
 15 up for, I suppose] account for staff shortages."
 16 So you were getting that information as well?

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

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1 had caught COVID.

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

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

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

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

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

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

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

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

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

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

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1 COVID. Still today we're seeing care homes shutting
 2 with a few weeks' notice and care companies ignoring the
 3 workers' statutory rights and only paying them the legal
 4 minimum of pay. Prior to COVID this sector was in
 5 crisis and post COVID it's difficult to see if any
 6 positive change has come from the employers. That's
 7 what I'd like to say and I'd like to thank you for
 8 listening to what I've had to say today.
 9 MR GALE: Thank you very much, Mr Arkison. Those are all
 10 the questions I have for you. Thank you, my Lord.
 11 THE CHAIR: Thank you, Mr Gale. Thank you, Mr Arkison.
 12 That's the conclusion for today. Is it 9.30 tomorrow
 13 morning, Mr Gale?
 14 MR GALE: Yes, it is.
 15 THE CHAIR: 9.30 tomorrow morning. Thank you.
 16 MR GALE: Thank you, my Lord.
 17 (2.57 pm)
 18 (The hearing adjourned until
 19 Wednesday, 23 April 2024 at 9.30 am)
 20
 21
 22
 23
 24
 25

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