

COVID-19: TAKE ACTION TO WIN SAFE WORKPLACES

A briefing for workplace activists

**Produced by trade unionists in the
Alliance for Workers' Liberty – March 2020**

workersliberty.org * awl@workersliberty.org *

[@workersliberty](https://twitter.com/workersliberty)

COVID-19: TAKE ACTION TO WIN SAFE WORKPLACES

- Full pay for all workers from day one of absence
- No disciplinary action for following NHS advice in staying away from work
- Abolish zero-hour contracts and outsourcing
- All necessary measures to protect workers' safety

Has your boss:

- guaranteed full pay (not Statutory Sick Pay, SSP) and no disciplinary action for all workers from day one of any absence, including asymptomatic self-isolation?
- taken necessary precautions to minimise the risk of exposure?

If not, there are actions that you and your workmates can take.

- Contact your trade union. If you are not in a union, join one and form a workplace union group.
- Elect a health and safety representative. You have the right to do this even if there is not a recognised trade union in your workplace.
- Draw up a list of demands and table them to your boss.
- Where you believe that you are in serious and imminent danger, refuse to work.

You have the legal right to do all these things.

Your demands

We suggest that these include:

- full sick pay (or paid special leave) from day one for all workers who are following government advice in staying away from work
- no disciplinary action for following government advice in staying away from work
- adequate hygiene provision, including access to frequent hand-washing
- social distancing at work, including withdrawal of duties that involve close contact, and home working where practical
- the establishment of a monitoring committee including elected workers' representatives to scrutinise all information and advice and recommend further actions.

Refusing to work on safety grounds

Under Regulation 8 of the Management of Health and Safety at Work Regulations (1999), and Section 44 of the Employment Rights Act (1996), all workers have a right to refuse work on health and safety grounds, without victimisation or loss of pay, if they perceive there is a serious and imminent risk'.

We believe that there are good grounds to perceive serious and imminent risk if, for example:

- there are insufficient hygiene facilities in your workplace eg. lack of access to soap and water; inadequate alternative provision for mobile workers
- your work involves close contact with other people
- you are working alongside people who may be infected but have come to work because they would lose vital income or face disciplinary action if they did not

Without full sick pay, we are not safe

Official government advice, from Monday 16 March, is to self-isolate for 14 days if you have a new persistent cough or a fever. Many workers - especially workers in unionised workplaces - are entitled to full sick pay and/or other leave arrangements that mean they can self-isolate without worrying about the financial impact.

But others do not have this right. If these workers take time off, they may only get SSP, £94.25 per week. This is less than a third of the net pay of a worker on the minimum wage, significantly less than the dole, and less than half an average weekly rent in London.

Even if you have sick pay rights yourself, you may well work alongside people who do not – especially if you work in large public service industries such as hospitals, schools and transport.

Workers on zero-hours or outsourced contracts usually have the lowest pay and worst conditions in our workplaces: they are the cleaners, caterers, security staff, etc. If these workers get a cough or a fever, they are put in an impossible situation - either follow government advice and face impoverishment, or struggle through work and potentially infect colleagues and the public with a deadly virus.

These harsh employment practices are obstructing the self-isolation strategy, which the government assures us will delay the spread of the virus.

All workers, directly-employed and outsourced, permanent and zero hours, must stand together to demand real action, and equal treatment, from our employers.

What to do

- 1. Speak with your workmates.** Talk to them about their legal rights and discuss the issues. If you are in a unionised workplace, and can pursue this activity through the structures of a recognised union and collective bargaining machinery, great. But we need to act more quickly than many formal structures allow.
- 2. If you are not part of a trade union, join one.** Any long-term effort to win more rights and power in your workplace requires permanent organisation. Most unions are affiliated to the Trade Union Congress (TUC); information on joining a TUC-affiliated union is here: <http://tuc.org.uk/join-union>.
- 3. Draw up a list of demands.** Use the list above and add things that are relevant to where you work. Involve all your workmates in doing this.
- 4. Elect a health and safety representative.** Information on the role and rights of staff health and safety reps here: <https://hse.gov.uk/involvement/hsrepresentatives.htm>
- 5. Write to management.** This could take the form of a letter or a petition. We've provided a sample template; adapt it based on your specific workplace circumstances. Make sure you give your employer a deadline by which to implement your demands.
- 6. If you face serious and imminent danger, stop work.** Do not wait for management to consider the situation – they can do this when you stop work, and will be more likely to do so! The law gives you the right to refuse to work on the basis of a serious and imminent risk. Exactly what form such refusals and stoppages take might vary from workplace to workplace, but it could involve a straightforward refusal to work at all until management meet demands to minimise risk. In this case, explain your action to other workmates and encourage them to join you.

IT CAN WORK

In early March, following pressure from the local branch of Unison, Lambeth Council agreed to ensure full pay for zero hour contract workers who self-isolate or take sick leave. If Lambeth Council can do, after a decade of austerity, why can't every employer?

SPREAD THE WORD

If you take this action, let other people, especially other workers in your industry, know you're doing it, and especially if you get results.

WHAT NEXT?

If your management continues to refuse to budge, speak to your union about formalising your action into a dispute. Spreading the word about your action and encouraging social media pressure on your employer can also add to the impact of what you're doing.

In the longer term, continue to press demands for equal treatment and conditions. This crisis clearly highlights the exploitative and unjust nature of zero-hours contracts, outsourcing, and other employment practises that divide workers. All workers should be directly employed, with access to the same benefits and conditions.

WHAT IS WORKERS' LIBERTY?

This briefing is produced by activists in the Alliance for Workers' Liberty (AWL). AWL is a revolutionary socialist organisation active in the working-class movement in Britain, including trade unions and the Labour Party. We fight for a revolutionary alternative to capitalism and Stalinism, based on common ownership and workers' rule.

Our members and supporters work in a variety of industries and are active in a range of unions, with decades of experience of involvement in workplace and community struggle. We have a press, including workplace bulletins and a weekly newspaper, *Solidarity*, and can use our experience and networks to help amplify, spread, and support your action.

www.workersliberty.org

@workersliberty

WHAT THE LAW SAYS

The relevant sections of legislation are pasted below. The law gives us the right to take “appropriate steps” to avoid “serious and imminent danger”, and to be protected from suffering any detriment, including loss of pay, for doing so. Clearly, an employer inclined to argue the toss could contend that their refusal to guarantee full pay to anyone self-isolating does not represent a “serious and imminent danger”, or that refusing to work until they do is not an “appropriate step”.

But the stronger your action, and the more workers involved in it, the flimsier their ability to make that argument will be. Given everything we know about the highly contagious nature of this virus, there is a clear case for arguing that forcing potential carriers to come to work, in direct defiance of public health advice, because they can't afford to do otherwise is a “serious and imminent danger”.

For more info on the law and how it works, we recommend this briefing, from the RMT union: <https://rmt.org.uk/news/publications/serious-and-imminent-danger-booklet/serious-and-imminent-danger.pdf>

And this website: <https://section44.co.uk/>

The Management of Health and Safety at Work Regulations 1999 (the Management Regs), Reg 8

<http://legislation.gov.uk/uksi/1999/3242/regulation/8/made>

Procedures for serious and imminent danger and for danger areas 8

(1) Every employer shall— (a) establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work in his undertaking;

(b) nominate a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation from premises of persons at work in his undertaking; and

(c) ensure that none of his employees has access to any area occupied by him to which it is necessary to restrict access on grounds of health and safety unless the employee concerned has received adequate health and safety instruction.

(2) Without prejudice to the generality of paragraph (1)

(a), the procedures referred to in that sub-paragraph shall— (a) so far as is practicable, require any persons at work who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

(b) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and

(c) save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person shall be regarded as competent for the purposes of paragraph (1)

(b) where he has sufficient training and 5 experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that sub-paragraph.

Employment Right Act 1996, Section 44 (Health and Safety Cases)

<http://legislation.gov.uk/ukpga/1996/18/section/44>

(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that —

(a) having been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety at work, the employee carried out (or proposed to carry out) any such activities,

(b) being a representative of workers on matters of health and safety at work or

member of a safety committee —

(i) in accordance with arrangements established under or by virtue of any enactment, or

(ii) by reason of being acknowledged as such by the employer, the employee performed (or proposed to perform) any functions as such a representative or a member of such a committee,

(c) being an employee at a place where –

i) there was no such representative or safety committee, or

(ii) there was such a representative or safety committee but it was not reasonably practicable for the employee to raise the matter by those means, he brought to his employer's attention, by reasonable means, circumstances connected with his work which he reasonably believed were harmful or potentially harmful to health or safety,

(d) in circumstances of danger which the employee reasonably believed to be serious and imminent and which he could not reasonably have been expected to avert, he left (or proposed to leave) or (while the danger persisted) refused to return to his place of work or any dangerous part of his place of work, or

(e) in circumstances of danger which the employee reasonably believed to be serious and imminent, he took (or proposed to take) appropriate steps to protect himself or other persons from the danger.

(2) For the purposes of subsection (1)(e) whether steps which an employee took (or proposed to take) were appropriate is to be judged by reference to all the circumstances including, in particular, his knowledge and the facilities and advice available to him at the time.

(3) An employee is not to be regarded as having been subjected to any detriment on the ground specified in subsection (1)(e) if the employer shows that it was (or would have been) so negligent for the employee to take the steps which he took (or proposed to take) that a reasonable employer might have treated him as the employer did.

(4) Except where an employee is dismissed in circumstances in which, by virtue of section 197, Part X does not apply to the dismissal, this section does not apply where the detriment in question amounts to dismissal (within the meaning of that Part).

TEMPLATE LETTER TO YOUR MANAGEMENT: YOUR DEMANDS

To [THE BOSS]

As workers in [WORKPLACE] who are members of [TRADE UNION], we are writing to demand that you, our employer, take all necessary precautions to minimise risk during the Covid-19 pandemic. Immediately we are concerned that some workmates, such as those on zero-hour and outsourced contracts, cannot afford to self-isolate, as they may only receive Statutory Sick Pay (SSP), if that. This means that these workers are economically prevented from carrying out public health instructions and could therefore put themselves and others at greater risk.

We therefore demand that all workers in [WORKPLACE], whether directly-employed or outsourced and regardless of contractual status, are guaranteed full pay from day one of any self-isolation or sickness absence. This may involve you as an employer instructing the holders of any outsourced contract to pay full pay to their employees, or underwriting such payments yourself.

Further, we demand the following measures to minimise risk:

[add demands specific to your workplace, which may include:]

- more frequent breaks for hand-washing
- adequate supplies of soap, water, etc
- appropriate hand-cleaning materials for mobile workers
- suspension of work tasks involving contact eg. cash payments

To ensure that the workplace continues to take up-to-date appropriate act, we ask you to establish a monitoring committee including trade union representatives, which will have access to all data, information and advice, and which can recommend action.

We demand that you take these measures is taken as soon as possible, and within no more than five days.

Should we come to believe that we are in serious and imminent danger, we will exercise our legal right to withdraw from work.

Yours,

[COLLECT SIGNATURES ON THE LETTER]

TEMPLATE LETTER TO YOUR MANAGEMENT: REFUSAL TO WORK ON THE GROUNDS OF HEALTH AND SAFETY CONCERNS

To [THE BOSS]

I am concerned for the safety of myself and others, as I believe that I am in serious and imminent danger of coronavirus infection due to the lack of adequate safety measures in my workplace.

Specifically, I face serious and imminent danger from:

- contact with workers attending work while ill or infectious because they are not receiving full sick pay or paid special leave and can not afford to stay off work
- contact with workers attending work while ill or infectious because they face disciplinary action if they follow government advice and stay off work
- lack of adequate access to hand-cleaning facilities
- work duties involving close contact with persons who may be infectious eg. taking cash payments

[make these specific to your working conditions]

You have a duty to provide me with a safe workplace and I ask that you assure me that the arrangements you have in place adequately protect my safety and the safety of others for whom I am responsible.

Until I receive such assurance, and in line with my legal right under Section 44 of the Employment Rights Act 1996, I am refusing to carry out my work [or specified parts of my work] and/or I am withdrawing from the workplace which I believe to be unsafe.

Please initiate the company's procedures for protection against serious and imminent danger and addressing my concerns.

Yours

[YOUR NAME]