

off the rails

a platform for rank-and-file rail workers - briefing on refusal to work on safety grounds



Unsafe?
Refuse To Work!

Refusing To Work On Safety Grounds

Rail workers know that our employers will to risk life and limb (ours, not theirs!) to keep the trains running and the cash coming in. We can not trust them to protect us at work - we have to rely on ourselves.

In the first century of the railway industry, unsafe conditions killed and injured workers at an alarming rate, and campaigns for higher safety standards drove the growth of railway trade unionism. Today, in the century of Tebay and Hatfield, this fight is as crucial as ever.

In the 1980s and 90s, Tory governments took away many of our trade union rights, and ten years of New Labour has kept virtually all the anti-union laws in place. But over the same period, our legal safety rights have increased. Although this is a shift from collective to individual rights, we can still use it for collective struggles, together refusing to work on safety grounds. Unlike official industrial action, these struggles can be immediate and free from constraints of notice periods and exhaustive balloting procedures.

What Does The Law Say?

The Management Of Health And Safety At Work Regulations 1992 state that employees have the right to stop work and proceed to a place of safety "if exposed to serious, imminent and unavoidable danger". The Trade Union Reform And Employment Rights Act 1993, confirmed by the Employment Rights Act 1996, gives protection to union health and safety representatives, and ordinary workers, to

raise safety concerns and act on them. It made it illegal for employers to victimise workers who:

- leave, propose to leave, or refuse to return to a workplace (or part of it) in the event of danger they believe to be serious and imminent and could not reasonably be expected to avert;
- take appropriate steps to protect themselves and others when facing serious and imminent danger.

Case law has established that this covers danger to the public as well as to staff.

Using The Law

In January 1996, ASLEF members refused to drive trains on the **North Kent lines** after tests showed that 10% had cracked couplings. Management decided to run the trains but with connecting doors locked to prevent passengers getting to the couplings. But what if the couplings fractured at high speed? And how could passengers be evacuated through locked doors in the event of a fire or crash?! Drivers refused to drive, the Health & Safety Executive (HSE) backed them, and management had to withdraw the whole fleet for inspection and repair. It was a significant victory for workers' solidarity; we will never know how many lives it saved.

During **Connex's tenure of the South Eastern franchise**, it ran an appalling safety regime, with long driving hours, obstruction of safety reps, and no action on assaults, cab heat, flooding in sidings and other issues. But workers still won a few victories, refusing

to use unsafe walkways, use 465/6 cabs when unbearably hot, or take trains into passenger service with safety faults.

During the **2002 Fire Brigades Union strike**, Tube drivers refused to drive because of lack of fire cover had potentially-fatal consequences. On the second day of the drivers' refusal, LUL sent them home without pay (an act of solidarity with the Fire Brigade employers, despite solidarity action being illegal for workers!). Months later, LUL settled the drivers' Employment Tribunal claim and fully refunded their docked pay.

In 2005, **Midland Mainline introduced multiple-unit trains** with no connecting door. Guards insisted on a guard in each part and refused to work as the sole guard unless the inaccessible part of the train was locked out of use. RMT balloted the 100 guards for industrial action. 90% voted Yes, only for a court to declare the ballot illegal because it was 'tainted' by the refusal to work. It was a scandalous class-biased ruling, which sadly seems to have made RMT less willing to take action on safety issues - the London Underground Rule Book dispute in 2007 being a case in point. Lesson: it may be better not to mix refusal to work with industrial action ballots. Organise the refusal properly and there should be no need to ballot too.

ASLEF has advice on refusal to drive if **the cab is too hot**. Typically for union notices, it is worded cautiously: "Members are advised that ASLEF believes that circumstances may arise in which our members and the public are in 'serious and imminent danger', due to the possible physical symptoms arising from heat-related illnesses while driving trains in hot weather." *Off The Rails* can be more direct. If the cab's too hot, refuse to get in. If any working practice is unsafe, refuse it.

Refusing Unsafe Work

Unsafe conditions can continue for weeks, even months, and management do nothing - then workers refuse to work and the problem quickly gets fixed. Employers may have the policies, but workers' action enforces them.

Some examples ... A ticket office's air conditioning failed - management did nothing for weeks, then the ticket sellers closed their windows and an hour later management delivered a fan! An employer failed for weeks to investigate suspected asbestos in a lift machine room, until station staff took the lift out of service and closed the station. Management let a P-Way cabin become filthy and unhygienic, but when workers refused to book on there, quickly got it cleaned up.

Here's what to do. Know your employer's procedure for refusal to work on grounds of health and safety concerns. Legally, every employer must have one, available to all workers. Dish out copies in the workplace.

When you face a dangerous situation, follow the procedure. Alert your union health and safety rep; tell your workmates, urge them to take the same action as you. You may have to write down why you are refusing to work. Management may try to intimidate and isolate you. Stick to your guns. Keep together, try to spread your action quickly. Go to the rest of the union, and to other unions and even the public, for support.

When workers take action like this, it asserts our right to control our workplace and our safety. It is usually initiated by rank-and-file union members rather than head offices, and so should be controlled by the rank and file. But stronger leadership from head offices could give rail workers more confidence to use this method of struggle to improve our safety and conditions at work.

Unsafe?

- Working without backup from emergency services?
- Poor track condition?
- Train not prepared properly?
- Working alone because other duties are not covered?
- No place of safety?
- Threatened with assault?
- Defective equipment?
- No-one available to fix faults?
- Structures eg. walls, ceilings, not secure?
- Fire systems not working properly?
- Congestion?
- Trip and slip hazards?
- Previous accident on the site with measures not taken to prevent recurrence?
- Not got the right licences or training?
- Inadequate protection?
- Adverse weather conditions?
- Overbearing heat?
- PPE not available?
- Not got the right paperwork to prove it's safe?

off the rails

- is a quarterly pamphlet, plus bulletins as needed for particular campaigns or disputes.
- is written by railway workers - all our reports are from the front line.
- is for all rail workers, whatever your grade, location or employer, whatever trade union you are in.
- aims to provide information to rail workers, support to our struggles, and a forum to discuss strategies.
- welcomes and will publish reports, comments and opinions from all rail workers.
- is fiercely pro-union, but is independent of the union head offices, so is not chauvinist about any particular union, and is free to criticise the unions' leadership when we feel it is necessary.
- has a statement of aims called 'Fantasy Union of Rail and Transport Workers': **get a copy when you subscribe.**
- is published by the socialist group Workers' Liberty, but aims to be a platform and an organising tool for all activists who share our basic outlook.
- can be sent to you in the post - **send a fiver to the address below, or phone us to arrange subs for multiple copies.**
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