



**APRIL 2ND
2021**



IT IS ESSENTIAL THAT ANY CEV MEMBER OF STAFF WHO NEEDS TO, CAN REMAIN SAFE AND AWAY FROM WORK UNTIL SUCH TIMES AS ALL PARTIES ARE SATISFIED IT IS **SAFE FOR THEM TO RETURN. THAT CANNOT BE WITH LOSS OF PAY.**

Following the companies recent response to RMT reps raising concerns about CEV and CV staff returning to the workplace, your regional organiser has written to the company making it clear that we reject their position and believe it is unsafe.

“Risk assessments can only be effective if they are carried out before the commencement of the task/ activity or work. It is essential that any CEV member of staff who that applies to, needs to remain safe and away from work until all parties are satisfied it is safe to return. That cannot be with loss of pay.”

- Regional Organiser John Leach in writing to LUL Director of Customer Operations, sent 2nd April

It has been and will always be, unacceptable to withhold earnings on this basis alongside any threat of disciplinary action regarding social distancing. This appears to have made its way into the wording of the latest management guidance and our industrial reps are robustly challenging this.

We also disagree with the company that it is only those with a Covid age of 85+ that there

should be any concerns about, as implied in an email to our Regional Organiser:

“Only if a person has a COVID age of 85+ should there be any concerns and in any case with steps put in place by a workplace risk assessment, even people in this category could return.”

- LUL Director of Customer Operations writing to John Leach, 1st April

We share the companies concerns that those who have been away from the workplace long term, face immense challenges in returning. And where it is **safe** to do so, it must be done with the utmost support. We do not believe rushing people back to the workplace is putting our members safety first.

IF YOU ARE A MEMBER OF STAFF BEING RETURNED TO THE WORKPLACE FOLLOWING SHIELDING, PLEASE SPEAK TO YOUR LOCAL REP AS SOON AS YOU CAN. WE ARE HERE TO HELP YOU AND WANT TO MAKE SURE YOUR SAFETY IS PUT FIRST.

REFUSAL TO WORK (LUL)

For clarity, we reject LUL's opinion of refusal to work legislation. The union has long believed this to be flawed and illegal. None the less, it is crucial you have a clear understanding of the companies refusal to work policy so we have written this brief guide.

When a member of staff believes it is not safe to continue work, they must stop work and immediately report it to their manager.

The manager must inform the local H&S rep as soon as possible

The manager in consultation with a HSE advisor must determine if there is or isn't serious or imminent danger and provide reasons why the risk is or isn't considered 'as low as reasonably practical'.

The manager must record and communicate this to the member of staff and their H&S rep

If there is a failure to agree, the workplace risk assessments (WRA's) must be reviewed by the manager and HSE advisor. This must be

recorded and communicated to the member of staff and their local H&S rep. If a local rep isn't available, management must report this to Tier 2

If the review confirms the risks are 'as low as reasonably practical', the employee will be requested to work normally.

If the review confirms it is unsafe to continue working that way, the manager must explain how the matter will be dealt with and what work can be done in the meantime, if any.

There are slight differences in what to do if the potential danger is or could be affecting more than one location - for example Safety Council must be informed as soon as possible and a senior LU manager will be appointed to co-ordinate the actions required.

Whilst the employee waits for the investigation to be fully and properly completed the manager must find reasonable alternative work either within the workplace or at a different workplace location or the employee shall be sent home with no detriment to their pay, terms or conditions.

REFUSING TO WORK UNDER THE GROUNDS OF HEALTH & SAFETY (GENERAL)

Your right to refuse to work under the grounds of health and safety is protected by law. If you believe you are in serious or imminent danger, you should withdraw to a place of safety.

There are two main bits of legislation that protect your right to do this:

The Management of Health and Safety at Work Regulations 1999 [Section 8]

Employment Rights Act 1996 [Section 44]

Our employer must as far as is 'reasonably practicable' ensure the health, safety and welfare of all its employees.

You will need to make an informed decision, based on your knowledge of the environment you are in, and the circumstance.

- (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

The Management of Health and Safety at Work Regulations 1999 [Part of Section 8]

- (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.

Employment Rights Act 1996 [Part of Section 44]