

**A message from Howard Beckett**

Assistant General Secretary, Political & Legal Affairs

**S 44. & S 100 of the Employment Rights Act 1996**

A lot has changed in the past few weeks, some things have not. One of the most important of these is that, despite the ever-changing advice and the new and hastily introduced laws:

**Your employer is obliged under the law to provide you with a safe place of work**

Unite is receiving on a daily basis reports of workplaces failing to operate the very basic requirements of social distancing (on the factory or shop floor, in vehicles and rest facilities) proper, regular and clean facilities to ensure frequent handwashing and the appropriate personal protective equipment.

**This is not acceptable nor lawful** and we have instructed our lawyers to prepare for legal action should employers consistently refuse to implement these very basic and life saving measures.

**Members however should know their individual rights**

There are some protections for employees. The most relevant are those which protect employees from being subjected to a detriment or dismissal (contained in S44 & S100 of the Employment Rights Act) on grounds that:

- (i) *'in circumstances of danger which the employee reasonably believes to be serious and imminent and which they could not reasonably be expected to have averted, they left (or proposed to leave) or (while the danger persisted) refused to return to their place of work or any dangerous part of their place of work'; or*
- (ii) *'in circumstances of danger which the employee reasonably believed to be serious and imminent, they took (or proposed to take) appropriate steps to protect themselves or other persons in danger.'*

It is for individuals to make their own decisions in their own workplace as to whether there are 'circumstances of danger' which they 'reasonably believe' to be 'serious' and 'imminent' so as to justify leaving the workplace or (while any danger persists) refusing to return or taking appropriate steps to protect themselves.

These individual rights do not apply to all categories of worker particularly those that have the status of self-employed. However the duty for employers, hirers or contractors to provide a safe working environment for all those engaged in a workplace applies consistently. Where poor safety practices are reported to the union, Unite will make the appropriate interventions with those organisations to ensure the highest standards of safety are maintained.

This advice is intended only to communicate what the law is; however if members that are employees suffer a detriment or dismissal on the basis of a genuine and reasonable belief then UNITE WILL SUPPORT YOU.



**Howard Beckett**

Assistant General Secretary for Political and Legal Affairs