



TFL & LUL SPECIAL BULLETIN



NO MEMBER OF STAFF SHOULD BE WORKING WITHOUT 2M SOCIAL DISTANCING!

If you refuse to work because it is unsafe, you will probably be shown a letter from LUOH that says ensuring social distancing is how LU is making the job safe. Therefore it is crucial that no-one works without 2m social distancing. This letter does not say "where possible" or "unless you've got a face covering". It says their approach to safety is dependent on social distancing being applied.

We have seen the documents management have been sharing, including the 'refusal to work' manager flowchart that appears to indicate if a member of staff feels they are in serious and imminent danger for a workplace COVID19 related reason, their concern is not valid and doesn't need to follow the Refusal to Work Process. This is completely untrue. Using pre-prepared 'assurance documentation' to suggest to a member of staff that their concern isn't real or genuine is not in the spirit of the law. Health and safety legislation exists in part to ensure workers have the right and means to contest the adequacy of safety arrangements.

Let us be clear. Do not be intimidated, you have the right to raise valid concerns and to expect serious answers. Your local rep, Tier 2, your regional organiser and NEC member are all here to support you.

KNOW YOUR RIGHTS

[The Management of Health and Safety at Work Regulations 1999](#)

[\[Section 8\]](#)

[Health and Safety at Work Act 1974 \[General Duties\]](#)

[Employment Rights Act 1996 \[Section 44\]](#)

[RMT COVID19 Guidance](#)

[RMT Serious & Imminent Danger Booklet](#)



RMT STATEMENT 10TH MAY

“If two metre social distancing cannot be maintained we consider it to be unsafe and members have the legal right to use the worksafe process. On LUL they have the legal right to use the refusal to work policy.

RMT will fully back any member who uses this process to ensure their safety.

You should therefore ensure the following in respect of how you conduct your work:

- a) Ensure any arrangements are based on train usage being limited to an average of 20%
- b) Social distancing must remain in place at 2m. If there are essential tasks that must be carried out where 2m is not possible then agreed mitigation must be in place.
- c) PPE- Surgical masks / visors are not protection from infection and are not mitigation for any failure to implement 2m social distancing.
- d) Social distancing must be possible in staff areas after any increase in services”

RMT ADVICE TO MEMBERS EMPLOYED IN THE RAIL INDUSTRY

“RMT believes the current Coronavirus - Covid 19 Pandemic represents a real threat to life that can be deemed as “serious and imminent”. Further Guidance on serious and imminent danger can be found on the RMT website at: <https://www.rmt.org.uk/news/publications/serious-and-imminent-danger-booklet/>

It is for individuals to make their own decisions 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.

Factors which it would be legitimate for employees to take into account include the latest Government and Ministerial advice and the adequacy of any personal protective equipment. In arriving at their own reasonable beliefs, employees should also take into account the reasons for continuing work put forward by the employer and all other relevant circumstances. ”



A QUICK GUIDE TO LUL'S REFUSAL TO WORK POLICY

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 difference with what to do if the potential danger is 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.
- If there is a failure to agree, the employee has the right of appeal.