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**To: All Branches**

Dear Colleagues,

**Legal Rights of Employees in Unsafe Working Conditions**

Since the introduction by government of measures to contain the Coronavirus epidemic the Health and Safety Department has been receiving a steady stream of enquiries from concerned members and representatives about the legal rights of employees in a situation in which they are expected to work in conditions which appear to be unsafe.

It is emphasised that the intention in advising members of their legal rights is **not** in any way to encourage unofficial industrial action. It is important to emphasise that in the first instance the Safety Rep and/or IR Rep should immediately raise the issue with the relevant manager or person in charge of the building. If the problem is not immediately addressed, it should be escalated to area or equivalent level and if still not resolved should be escalated without delay to the relevant senior field official.

Royal Mail is publishing regularly updated Q&A sheets on measures which should be in place to minimise the risk of infection. The most recent, issued yesterday, has been circulated in LTB177/20 issued today.

The key measures which must be in place are social distancing – a distance of 2m (6ft) should be maintained between individuals at all times; and facilities must be available for regular handwashing and collection and delivery staff and other staff working outside the office should be provided with hand sanitiser.

There are a small number of situations where a 2m distance cannot be maintained – for example engineers working on a fault which requires two-person attendance. Urgent discussions have taken place with the business to identify and obtain appropriate clothing/equipment to enable the limited and specific situations to be dealt with safely.

In situations where members believe there is a failure to implement and maintain safe working conditions and this represents a "serious and imminent danger" Section 44 of the 1996 Employment Relations Act (ERA) protects employees from detriment or dismissal:

*(d) in circumstances of danger which the employee reasonably believed to be serious and imminent and which they could not reasonably have been expected to avert, 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*

*(e) 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 from the danger*

In plain language, section (d) means that where an employee reasonably believes that there is a danger which is "**serious and imminent**" they can tell RMG that they intend to leave the workplace, or that part of the workplace where the danger exists, to actually leave if not given permission to do so or to refuse to attend for work **but only for the specific health and safety reasons.**

Whilst this is expressed as an individual right in the legislation, in Royal Mail where there are well established safety and industrial relations structures and procedures, mechanisms exist to quickly raise concerns with the appropriate manager and to escalate them if legitimate concerns are not fully addressed. It is imperative that wherever possible concerns are raised with Royal Mail so that action to remove the perceived threat can be taken.

None of the actions protected under Section 44 of the ERA 1996 should be treated as industrial action. Once again it must be emphasised that in responding to members' enquiries in situations producing major stress and anxiety, the union **is not** encouraging un-balloted industrial action. We will of course support members exercising their rights under Section 44 to do so without suffering any detriment from the employer. The union's primary role in the current situation is to ensure that the workplace is as safe as possible and that membership concerns are appropriately addressed by Royal Mail which has a legal obligation to adopt and apply appropriate measures to protect the safety of its workforce.

Any enquiries to this LTB should be directed to Ray Ellis ([rellis@cwu.org](mailto:rellis@cwu.org)).

Yours sincerely

**Ray Ellis**  
**Acting National Health, Safety & Environment Officer**