

## Safer workplaces guidance – TUC initial briefing

### Introduction

Many people have been working outside the home throughout the first phase of the coronavirus crisis. But the approach to encouraging more people back to workplaces set out by the Prime Minister on Sunday evening, and the briefing that led up to the announcement, were a recipe for confusion and anxiety. Instructing people to go back to sites and factories with just a few hours' notice, before the publication of guidance and without time for employers and unions to assess risks and take steps to address them was reckless. Above all, working people need a clear and serious approach to managing the easing of the lockdown, not to be rushed back to workplaces before careful thought and action have gone into making them as safe as possible.

This move comes against a backdrop of rising concern about the impact of the late lockdown, the lack of a clear strategy on testing and tracing, Britain's paltry sick pay regime and the immense failures on PPE – on which the TUC has called for a public inquiry. Many parents still have no access to childcare, and measures to allow more people to travel safely to work are not yet in place, making it impossible for some to get to work. It is essential that, as part of the overall strategy to ease the lockdown, these issues are addressed in a coherent way to build safety and confidence.

Guidance for employers was published on 11 May, with a series of headline recommendations alongside a set of sector-specific guidance notes. Unions had been invited to comment on an early draft of the guidance the previous week and had raised serious concerns about the tone and content of the draft.

This note provides an initial analysis of the published guidance against our priorities, including where there are steps in the right direction and where we will want to urgently focus attention on securing further movement from government.

The eight sets of sectoral guidance are very similar, but with some recognition that, for example, social distancing is more difficult in some sectors than in others. The TUC would be interested to hear from unions with particular expertise in the various sectors to build upon this analysis and identify areas for further engagement with government.

### Steps in the right direction

Union lobbying has secured a number of welcome changes to the guidance. All employers must now carry out and publish risk assessments in consultation with their unions and their workforces. The role of union health and safety reps is acknowledged. And increased resources have been announced for the health and safety executive to support enforcement. Generally, the language has been strengthened throughout, with an emphasis on setting out expectations rather than suggestions. Such expectations do not have legal force, of course, but the guidance stresses the responsibility on employers to take this seriously more than in earlier drafts.

Specific steps in the right direction include the following:

#### **Risk assessments**

The guidance instructs employers to carry out a covid-19 risk assessment and states: "This guidance operates within current health and safety employment and equalities legislation and employers will

need to carry out covid-19 risk assessments in consultation with their workers or trade unions, to establish what guidelines to put in place. If possible, employers should publish the results of their risk assessments on their website and we expect all businesses with over 50 employees to do so.”

The statement that employers should consult with workers or trade unions is welcome. The statement that employers “should” publish their risk assessments and those with over 50 employees are “expected” to do so is a step forward.

### **Recognition of the role of unions and consultation with reps**

The guidance states: “You must consult with the health and safety representative selected by a recognised trade union or, if there isn’t one, a representative chosen by workers. As an employer, you cannot decide who the representative will be.”

This is clear and is a point stressed by unions in their engagement with government.

### **Equality**

The guidance now includes a section on the requirement for employers to take into account the particular circumstances of those with different protected characteristics, including responsibilities towards disabled workers and new and expectant mothers.

It is encouraging that the guidance now mentions equality issues. It is particularly welcome that pregnant women and new mothers are explicitly included, and that there is reference to current protections including the fact that women should be suspended on full pay if the working environment cannot be made safe for them.

### **Resources for the HSE**

Alongside the specifics of the guidance, the government has announced an increase of up to an extra £14 million for the Health and Safety Executive (HSE) for extra call centre employees, inspectors and equipment.

This has been a trade union ask throughout this process.

## **Areas of concern**

Despite the improvements outline above, there remain a number of areas of serious concern where we will be pushing government to go further.

### **Working from home “if you can”**

The guidance states as the first principle: “All reasonable steps should be taken by employers to help people work from home. But for those who cannot work from home and whose workplace has not been told to close, our message is clear: you should go to work.”

This is a clearer statement of the government’s position than was given by the PM on Sunday. Where it is possible to work from home, this is still the recommended approach. But it still has the wrong emphasis. Securing a safe return to work guided by full risk assessments must be the priority, rather than rushing people back to the workplace before the right measures are in place to minimise risk.

### **Risk assessments and enforcement resources**

While we are pleased that the guidance includes stronger language on risk assessment and a clear expectation that employers should publish their assessments, the TUC has called for publication of risk assessments to be mandatory.

And while the increased resources for enforcement are welcome, the sums involved still fall far short of the cuts to the HSE and local authorities over the past ten years.

### **PPE**

There is an ongoing crisis in the supply of PPE. Introducing ways of working that prevent exposure to risks is the most effective way to keep people safe. But it is crucial that where risk assessments identify the need for PPE it is provided. Government needs to work urgently to address issues of supply and put in place a government-wide strategy on PPE.

The importance of the fit of PPE is included but the guidance does not mention women - including pregnant women - who often report problems with fit, as well as groups who wear facial hair for religious reasons. There is also no reference to additional risks for groups (including pregnant women and disabled workers with particular impairments) who may need to change PPE more frequently.

### **Equality**

While the equality section is undoubtedly improved, there is further to go. For example, the language on risk assessments could be clearer and give more precise direction to employers.

To be of more practical use, either examples need to be included in this section, such as around the potential adverse impact of decisions on staggering shift times on those with caring responsibilities and reasonable adjustments which could be made to support disabled workers with social distancing, or content relevant to equality groups should be referred to where relevant throughout the guidance.

Given the disproportionate impact of covid-19 on BME workers, it is concerning that this group is not mentioned at all in the guidance documents (the examples of protected groups listed are age, disability and gender).