

Labour safety at university: Covid-19 and right to online work

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1. Health and Safety at Work etc Act 1974 s 2(2)(a)

2 General duties of employers to their employees.

(1) It shall be the **duty of every employer** to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under the preceding subsection, the **matters to which that duty extends include** in particular—

(a) **the provision** and maintenance **of** plant and **systems of work** that are, **so far as is reasonably practicable**, safe and **without risks to health**;

2. Employment Rights Act 1996 s 44

44 Health and safety cases.

- (1) **An employee has the right not to be subjected to any detriment** by any act, or any deliberate failure to act, by his employer done on the ground that— [...]
- (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...
- (e) [...or...] **to protect** himself or **other persons** from the danger.

3. Every union has the right to advise and defend its members from detriment

- There is a **fundamental right of unions to defend the legal rights of our members.**
- At university, people are **not refusing to work, but insisting on the right to teach online safely**: see 'Ten things' (20 March 2020) [IER](#), signed by 40 labour law experts
- **No employee breaches their contract** by asserting statutory rights. No union who advises their members induces breach of contract. There is **no need for a strike ballot** for a union to full support its members.
- S Brittenden (27 March 2020) [UK Labour Law Blog](#)
- **Central UCU advice and guidance are not there yet.**

KCL UCU motion on covid-19

General Meeting, Wednesday, 20 January 2021

KCL UCU resolves that all teaching that can be online should be online, with strict exceptions for lab-based or practical teaching, until the end of the academic year, and until staff and students have had an effective vaccine.

- Cases of Covid-19 continue to soar. Bringing staff and students on campus for in-person teaching is high risk. The reopening of campuses in September has been in part responsible for this deadly second wave of the virus. 'Blended' learning or an opt-in/opt-out approach is confusing for staff and students, increases workload, and has meant that pressure to provide in-person teaching fell disproportionately on early career, precarious, and GTA staff.
- Moving between online and in person teaching is exhausting for staff and increases an already untenable staff workload.
- Government guidance has not been in the interests of staff or student safety, and we cannot rely on the government to make decisions in our interests.
- The university needs to take a clear position for the sake of students, as well as staff. Our branch expresses complete solidarity with students taking collective action, whose expectations (like those of staff) have been repeatedly raised and disappointed over the modes of tuition and the arrangements for housing and rent.
- The university must also accommodate staff who are parents and have child or caring responsibilities, through every available option, including furlough, workload reduction, or additional paid time off.
- Every employer has a duty to ensure that its 'systems of work' are 'without risks to health' whenever this is 'reasonably practicable' under the Health and Safety at Work etc Act 1974 [section 2\(2\)](#). Online teaching is reasonably practicable, and without risk.
- Every employee has the right against suffering any 'detriment' for not working in a workplace when they 'reasonably believe' it involves 'danger' that is 'serious and imminent' under the Employment Rights Act 1996 [section 44](#). KCL UCU will have zero tolerance for any detriment, whether that is bullying or pressure of any form, to teach face to face until this pandemic is over.

The branch is aware that many staff and students have pressing reasons to leave their house or home environment and that coming onto campus may be an important respite. Staff offices or work spaces should be available for use, in line with appropriate health and safety protocols, for those staff who need them.

King's College London must follow the example of UCL, LSE and others and put teaching online until the end of the current academic year, and until staff and students have had an effective vaccine.

Conclusions

- We need to,
 - (1) uphold our rights. Zero tolerance for any detriment against members in this pandemic. This should be enforced by interim injunction.
 - (2) ensure central UCU is guided by active and proper legal advice.
 - (3) strengthen collective action with legal action
 - (4) collectively bargain to have majority elected governing bodies.

UK covid-19 cases and deaths

Sources: coronavirus.data.gov.uk, 'People tested positive'. 'Deaths within 28 days'.

