



## Childcare: Section 44 Explainer

The UK has seen a dramatic increase in Covid-19 cases and related deaths, with Public Health England highlighting that **10% of Coronavirus breakouts in education settings since September 2020 have been within Early Years settings**. In the first week of 2021, workers in schools demonstrated that the use of **Section 44** legislation is effective in forcing government U-turns; with at least 6 000 primary schools receiving letters from staff by 4<sup>th</sup> January highlighting unsafe working conditions. Announcing the closure of schools on 5<sup>th</sup> January, the Prime Minister cited their role as **'vectors of transmission'** of Covid-19. Given that the same safety concerns apply to Early Years settings, **this explainer outlines how childcare workers can invoke their rights under Section 44 in order to keep themselves and their families safe, alongside the families of the children in their care.**

### What is Section 44?

- It is a section of the **Employment Rights Act 1996**, a key piece of legislation protecting the rights of workers.
- It can offer you protection if you refuse to work when you have a **'reasonable belief'** there is a **'serious or imminent danger'** to your health and safety or that of others around.
- When invoking Section 44 in relation to Covid-19, you are stating that you **do not believe that the conditions of on-site working provide adequate protection from contracting or transmitting the Coronavirus**.
- As Section 44 **protects you from suffering 'detriments'**, your normal wages should continue to be paid to you. However, if your employer attempts to withdraw your wages, **UVW will support you in making a pay claim**.

### How to use Section 44

- You can outline to your manager the reasons why you are exercising your rights under Section 44 verbally or in writing. We recommend you contact them in writing, by sending an email.
- **The email should outline that you deem your workplace to be unsafe, and as such why you are unable to continue to work as normal.**
- UVW has developed a template Section 44 letter that can be sent to your employer, outlining the legal and scientific basis for its use.
- You are able to personalise the letter to your early years setting and individual circumstances, for example adding whether you are a clinically vulnerable individual, pregnant or are in the same household as a shielder.
- The letter gives you the option to request to be put on furlough, or to be counted amongst colleagues for a rota that provides on-site care to children deemed vulnerable or are the children of key workers.

### Working towards a sustainable solution

- Section 44 is an individual right, but this does not mean that you cannot simultaneously exercise this right together with your colleagues. And from our experience, exercising your rights together is more likely to bring about a safer workplace.
- We recommend talking to and sharing this information with your colleagues, in order to develop your red lines around attending work, opening for key worker children and what you deem to be a safe return to work.

### What should I do next?

- **Join UVW Childcare Union** and you will receive the resources and support you need to submit your Section 44 letter and ensure that you do not return to work until it is safe to do so.
- Organise a call with one of our organisers for you and your colleagues, by emailing [childcare@uvwunion.org.uk](mailto:childcare@uvwunion.org.uk).