

Workers rights under the Health and Safety Act, ASTCA/STCA and Employment Relations Act

What should you do if you're feeling unsafe at work at Level 2 or 3?

[Worksafe NZ](#) affirms PPTA's advice that states that a teacher should raise any concerns they have with their principal and try to come to an agreement that reduces the risk.

Your principal may agree that you can work from home, for example, or that there 'reasonable alternative duties' (from [Employment NZ](#)) that could be substituted for your regular work.

You should also speak with your PPTA Field Officer, for advice and support, and connect with your school's Health and Safety Representative.

The Secondary Teachers' Collective Agreement (STCA) states in section 12.1.3 (ASTCA 10.1.3) that '*where employee's health, safety or welfare is shown to be at risk in the carrying out of their duties the employer shall take all reasonably practicable steps to eliminate or minimise the identified risk for the employees and to do so in consultation with the relevant health and safety representatives, committees and authorities that may be identified.*'

If you are not permitted to work from home, sick leave (with a medical certificate) may be an option (see STCA 6.2.4 and ASTCA 5.1.3)

Or your principal may agree to unpaid leave, or paid leave at their discretion (see STCA 6.8 and ASTCA 5.6.8)

It is important to note that no employee who has COVID-19 or who has been required to self-isolate may go into work, under any circumstances.

Refusing to work

The [Health and Safety at Work Act 2015](#) states under section 83(1) that '*a worker may cease, or refuse to carry out, work if the worker believes that carrying out the work would expose the worker, or any other person, to a serious risk to the worker's or other person's health or safety arising from an immediate or imminent exposure to a hazard*'.

These parts of section 83 may also be relevant:

(5) Subsection (1) does not authorise a worker to refuse to do work that, because of its nature, inherently or usually carries an understood risk to the worker's health and safety, unless that risk has materially increased beyond the understood risk.

(6) To avoid doubt, nothing in this section limits or affects an employee's right to refuse to do work under any other enactment or the general law.

[Worksafe NZ](#)'s position is that this should be a last resort, in situations where the risk of exposure to COVID-19 is 'very real and immediate'. This could include if the steps put in place to manage that risk correctly are not sufficient. You can [ask Worksafe NZ for help](#) to resolve the issue.

[Employment NZ's](#) view is that 'workers are unlikely to be able to refuse to work under these grounds if public health guidance is being followed and work is permitted at the workplace under the current Alert Level' and if 'all health and safety duties are being met.' They also add that although workers have the right to strike under employment law if they feel it is justified on the grounds of health and safety, that these grounds are unlikely to be considered reasonable if public health guidance is being followed.

If you do decide to refuse to work, you need to notify your employer as soon as possible. If you fail to do so, your employer may consider that you have [abandoned your work](#).

The Secondary Teachers' Collective Agreement (STCA), in section 3.4.5(e) includes '*absence from duty without valid excuse*' as potential grounds for disciplinary action.