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MINIMUM SERVICE LEVELS – CODE OF PRACTICE – ‘REASONABLE STEPS’

Dear Darren,

I am writing to you in your capacity as chair of the Business and Trade Committee to inform you of a public consultation launched today regarding minimum service levels.

Strike action across our public services over the last year has highlighted the disproportionate impact they can have on the public. On 20 July the Strikes (Minimum Service Levels) Act 2023 became law, enabling minimum service levels to be provided for in regulations, so that the public can continue to access key public services during strikes. The full list of sectors that a minimum service levels can apply to is:

- health services
- fire and rescue services
- education services
- transport services
- decommissioning of nuclear installations and management of radioactive waste and spent fuel
- border security.

Consultations to apply minimum service levels to ambulance, fire and rescue, and rail services concluded earlier this year and the Government will be setting out the response to these consultations in due course.

During the Act's passage through Parliament, the Government committed to bringing forward a Code of Practice, setting out more detail on the reasonable steps a union must take to meet their requirements in law. I am writing to inform you that the Government has today launched a public consultation on the draft Code of Practice.

Where an employer seeking to secure a minimum service level on strike day issues work notice to a trade union identifying the workers and work required, the union which has called strikes action must take 'reasonable steps' to ensure their members identified in the work notice comply with that work notice. Taking reasonable steps will enable that union to maintain protection from proceedings in tort brought by the employer in relation to an act done by the union to induce a person to take part, or to continue to take part, in a strike.

The draft Code of Practice on reasonable steps, which is being made using powers under section 203 of the Trade Union and Labour Relations (Consolidation) Act 1992, recommends five steps that trade unions should take to meet the legal requirement:

- **Step 1: Identification of members** - This step is about unions identifying their members on the work notice. This enables them to take reasonable steps regarding those workers.
- **Step 2: Encouraging individual members to comply with a work notice** – this step is about sending an individual communication to each member identified in a work notice to encourage them to comply with that notice and not to strike. This communication is referred to as a ‘compliance notice’.
- **Step 3: Communication to the wider membership** – this is a communication to explain to the wider union members a work notice has been issued to cover upcoming strike action and how that notice will affect the strike. This communication is referred to as a ‘information notice’.
- **Step 4: Picketing** – this step is where picket supervisors will be instructed by the union to take reasonable endeavours to ensure that union members who are identified in the work notice, and who identify themselves at the picket of this, will not be encouraged by those on the picket to take strike action.
- **Step 5: Assurance** - this step sets out that a trade union should ensure that it does not undermine any of the steps that it takes and to correct actions by union officials or members which may also undermine the reasonable steps.

The draft Code of Practice and consultation can be accessed via this link: www.gov.uk/government/consultations/minimum-service-levels-code-of-practice-on-reasonable-steps.

Following the consultation, the Government will lay the Code before both Houses of Parliament for approval. I'd be interested to understand any feedback any of the committees may have on the Code of Practice.

Yours ever,

A handwritten signature in black ink, appearing to read 'Kevin', with a stylized, cursive script.

KEVIN HOLLINRAKE MP

Minister for Enterprise, Markets and Small Business