

Attendance at Work Procedure – Clarity of application

LENGTH OF WARNING ‘UP TO’ 26/52 WEEKS

Trade union concerns	Insufficient/no discretion being applied.
Management position	Discretion is available. Although attendance warnings will generally be for 26 or 52 weeks, should the Local Manager decide at the LDI there are exceptional reasons then the length of warning can be reduced but this would need to be justified and documented. This approach provides consistency and prevents discrimination.

DOUBLE JEOPARDY

Trade union concerns	Issuing warning for an item under patterning that has already been used to issue an AAW warning is double jeopardy.
Management position	We agree, the same item of non-attendance cannot trigger both a patterning warning and an item warning. However, an item of non-attendance previously included in a warning can be used to demonstrate an emerging pattern and to draw the employees attention to that pattern. If there is then another item that confirms the pattern a referral to LDI/CDI for patterning can happen. 3 consecutive instances of non-authorised absence can constitute a pattern.

ISSUING 52 WEEK AAW WARNING FOR FIRST OFFENCE

Trade union concerns	Support pack indicates first offence must have ‘up to 26 week’ oral warning.
Management position	We agree that for a first level warning under AAW procedure the ‘up to 26 week’ level warning will apply.

LOCAL SICKNESS REPORTING PROCEDURES

Trade union concerns	These exceed agreements and should not do so.
Management position	We agree. Managers are not prevented from clarifying how agreed arrangements translate locally into practice, but these should not contradict AAW and sickness reporting procedures.

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CONTACT OF STAFF OFF SICK	
Trade union concerns	Unreasonable contact by telephone amounts to bullying. Next of kin should never be used.
Management position	We expect both management and the individual to agree at the outset appropriate contact arrangements in accordance with 2.2 in the AAW Procedure and to be reasonable in their expectations (for example, if absence is certificated from the outset and clearly going to extend, the level of required contact should take this into account). Failure to agree reasonable contact arrangements, or a failure to comply with required contact arrangements, will result in management having to take the lead. If there is no response to initial telephone contact, a letter should be sent to their registered home address. Next of kin contact details are made available for emergency reasons and should never be used solely in connection with the management of absence. Failure to turn up for duty is not an emergency.

SUSPENSION OF COMPANY SICK PAY	
Trade union concerns	This is happening for 'weak' reasons.
Management position	Suspending company sick pay is only appropriate where individuals do not comply with sickness reporting procedures or fail to respond to reasonable management instruction. Company Sick pay cannot be permanently withheld outside of an LDI that considers these failures. It is not an additional AAW sanction.

RETURNING TO ANNUAL LEAVE AFTER SICKNESS	
Trade union concerns	This should not be dependent on a return to work discussion taking place if that requires the individual to attend work once annual leave has commenced.
Management position	Agreed. A return to work is always required following sickness. However the return to work can be delayed in event of immediate annual leave, but the period of annual leave should not commence without a prior discussion with the manager that confirms sickness is ending and annual leave commencing. This can be done over the telephone if necessary.

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OCCUPATIONAL HEALTH V MEDICAL CERTIFICATE

Trade union concerns	OH contradicts GP certificates.
Management position	OH advises LU managers whether an individual is able to attend for duty in some capacity. There is an expectation that OH provide informed advice, i.e., after checking/speaking with the GP/Specialist if that is possible. It is for LU managers to decide on the basis of this advice whether the individual can be accommodated and an earlier return to duty in some capacity can be achieved. A meeting should be held with the individual to explain why an earlier return to duty is considered possible and the individual has the right to be accompanied at such a meeting. In taking action against someone who then refuses to co-operate with an early return, managers should bear in mind the contractual obligations with regard to statutory sick pay and London Underground's company sick pay.

TRADE UNION REPRESENTATIVES AT SICKNESS REVIEW MEETINGS

Trade union concerns	Holding sickness review meetings early to deny trade union representation or while the individual is at work.
Management position	Presuming the employee wishes to be accompanied at a sickness review meeting, trade union representation rights are clear – for meetings in connection with any absence that has exceeded 28 days or is likely to exceed 28 days. Management are not however prevented from holding meetings earlier for identified reasons (welfare, duty of care), or for discussing past attendance history when the employee is back at work. It should be made clear in letters setting up these informal meetings that no formal action can result from the meeting, and formal minutes are not to be taken. However, such meetings should not be arranged earlier than 28 days simply to avoid a trade union presence. No formal action (reasonable adjustments under the DDA, referral to redeployment, medical termination, light duties etc) can result from informal meetings.

SICK DEPENDENTS LEAVE

Trade union concerns	Concern that this is being refused unless notice is given.
Management position	Sick dependents leave is available to cope with emergency situations that prevent an individual being able to attend work. If the need is likely to continue, the individual will need to consider alternative arrangements to cover any continuing absence.

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VISIT TO STAFF HOMES

Trade union concerns	Unannounced visits to staff homes are not appropriate.
Management position	Agreed, this should normally be where mutually convenient. Rarely will unannounced visits to individual homes be acceptable, and if done must be for a justified and documented reason.

ACCIDENTS RECORDED AT WORK

Trade union concerns	Should be excluded.
Management position	Agreed that accidents that occur on duty (& assaults and other specified items as set out in the AAW procedure) will generally be excluded from AAW action unless there is insufficient evidence to support discounting the item. Any wider concern about a pattern of such incidents that in itself raises a valid management concern should be dealt with through alternative procedures.

AAW WARNINGS

Trade union concerns	Should never be issued at fact finding meetings.
Management position	Agreed, a formal attendance warning can only be issued following an LDI (or CDI).

EVERYTHING PROGRESSING TO LDI/CDI

Trade union concerns	No discretion is being applied and management instruct that formal action must be taken.
Management position	There is no instruction that everything is to proceed to LDI/CDI, there is an expectation that all items are investigated and a decision taken as to whether action (formal or informal) is necessary.

LATENESS

Trade union concerns	Should be managed separately to other absence concerns.
Management position	Agreed, the AAW procedure is clear that these are dealt with as separate items.

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MINOR INVASIVE SURGERY	
Trade union concerns	Should exclude MIS items, otherwise it encourages individuals to remain absent pending such surgery.
Management position	<p>Urgent MIS will not count, but management have scope to count MIS that is not deemed to be urgent or essential. Commonsense has to apply, we do not want to penalise staff who have no choice in the treatment and where there is a delay outside of their control. OH advice should be sought if time taken off for MIS seems excessive.</p> <p>It is not LU's intention to prevent or discourage individuals from having necessary/essential treatment, particularly if this will improve future attendance. With this in mind, both management and trade unions have agreed to work jointly to encourage individuals to advise their manager at the earliest opportunity of forthcoming surgery.</p> <p>Early notification enables the manager to make a more informed decision as to whether the impending treatment should be excluded as an item. In reaching this decision, managers should take some or all of the following into account:</p> <ul style="list-style-type: none">- The nature of the surgery, for example, whether this is necessary/essential or elective- Whether the treatment is part of a plan to improve attendance thereafter (for example, does it address a condition that has impacted on attendance previously)- The evidence provided as to the criticality of the treatment (consultants letter, GP's report)- OH advice- Any relevant underlying conditions <p>If the treatment is minor (for example, injections/vaccinations) or is planned and elective (for example, laser eye surgery that is not required for a critical underlying condition) then it is likely that the manager will decide that the time should be within the individuals own time (using annual leave or rest day), and if taken as sick then the manager may decide to count the item. Where it is essentially required, and will clearly provide a long term improvement in attendance then the manager is more likely to decide to exclude the item.</p>