



NOTES FOR GUIDANCE IN THE EVENT OF INDUSTRIAL ACTION ON LONDON UNDERGROUND

In the event of industrial action taking place on London Underground, a number of issues will arise. This note is intended as guidance to staff to ensure that, so far as is possible, a consistent approach is adopted throughout London Underground when dealing with various aspects of the situation.

It is not intended to issue a General Notice to staff on these issues. Each General Manager should therefore prepare and issue their own notices containing the sections or part of sections that apply to the relevant staff in their area. For example it would not be appropriate to issue the reference to staggering hours of attendance, flexible hours arrangements or working at home to train staff.

1. Attendance to Work

(a) General

Staff not taking industrial action will be expected to make every effort to attend their place of work during the period of disruption of LU services and they should be encouraged to use every reasonable means to achieve this objective. They should be reminded that it is their responsibility to present themselves for work. Where practicable, staff may be allowed to stagger their hours of attendance. Any staggering arrangement agreed must be conditional upon the normal workload for the period concerned being completed and no additional cost being incurred by the company. Staff not taking industrial action who, because of travelling difficulties, request to take outstanding leave entitlement during the period of the industrial action or vary their working days to avoid the action, should, if it is practical, be permitted to do so.

Staff on flexible hours arrangements may be allowed to take leave in addition to the normal quota of hours permitted in each calculation period, provided that the normal maximum numbers of carry-over debit hours is reduced to at least the maximum permissible by the end of the following accounting period.

Where staff report for duty, but cannot perform their normal duties, they should be used, as far as possible, on alternative productive work appropriate to their grade and licences. This would include staff who report to a London Underground booking point which is not their own and are unable to reach their own place of work, due to the industrial action.

As a last resort and only where practicable, staff may be allowed to take work home, provided a full day's work is completed for each day during the period of industrial action.

These guidelines should be interpreted according to your individual circumstances.

(b) **Staff in Grades Covered by the Industrial Action Who Refuse to Take Industrial Action, or Belong to a Trade Union not Involved in the Industrial Action, or do not Belong to any Trades Union**

Staff in this category should be encouraged to report for duty. Where circumstances prevent the utilisation of such staff on their normal duty, they should be used on alternative productive work appropriate to their grade and licences. Payment should be made in accordance with paragraph 3.

(c) **Use of Alternative Transport**

The following arrangements should apply in respect of staff using alternative transport facilities to enable them to attend for work:-

(i) **Use of Alternative Public Transport Facilities Not Covered by the Individual's Staff Pass Travel Facilities**

National Railway Services

Staff should pay the appropriate full fare for the journey being taken. It will be their responsibility to make a note of the journey/ticket details, cost etc., and to submit such details to support a claim for full reimbursement of expenditure incurred. You are requested to make arrangements within your area of responsibility to facilitate this provision. **In no circumstances must any staff or their dependants in receipt of privilege ticket facilities use their identity card to purchase reduced rate travel to or from work.**

Bus/Coach Services

Staff should pay the appropriate full fare for the journey being taken and should retain the ticket issued to them to support a claim for full reimbursement.

Staff on books prior to 1 January 1970 can, of course, still travel on those former London Country Bus Services on which their Staff Pass is valid.

Where staff receive reimbursement for the use of alternative transport as a result of disruption through strike action affecting their normal mode of transport to work, this payment is tax-free.

(ii) Use of Personal Vehicles

Staff who choose to use their personal vehicles for travel to and from work will not normally be paid mileage or any other allowance. The use of personal vehicles by essential staff or by other members of staff who assist LUL employees to travel to or from work should be authorised (wherever possible) in advance if deemed appropriate. Where this occurs, staff may claim mileage payments at the rate of 33 pence per mile, however, for staff with company cars the rate is 12 pence per mile. Such payments are tax-free.

It is the staff's responsibility to ensure that their car insurance covers the use to which their vehicle is being put.

2. Staff Who Take Industrial Action

Shifts lost through official industrial action will **NOT** count under the Attendance at Work procedure.

Staff covered by the industrial action who do not attend for work and who are not sick or on leave should be recorded on SAP, as appropriate, under the code for Industrial Action Official.

Staff not covered by the industrial action, but who do not attend for work and state they are taking unofficial industrial action, or who refuse to cross picket lines should be recorded on SAP as appropriate, under the code for Industrial Action Unofficial.

3. Payment to Staff

The following arrangements will apply:-

(a) Staff who do not report for work and are not on authorised leave.

No Pay.

(b) Staff who attempt to report for work but refuse to cross picket lines

No Pay.

(c) Staff who report for work

Staff who report for work and perform a rostered duty should be paid their contractual salary, or if appropriate, normal earnings.

Staff who report for work but are unable to perform any part of their normal duties as a result of the industrial action should be paid their contractual salary or rostered earnings where appropriate. This payment will be conditional upon staff accepting any alternative work offered to them which is appropriate to their grade and licences.

Where existing arrangements or agreements provide that staff who are late for duty owing to a failure of, or a delay in, public transport are not penalised, such provisions should be honoured. However, these arrangements apply only where management are satisfied that every effort has been made to get to work on time.

Staff who refuse to undertake alternative work which is appropriate to their grade and licences should be booked off duty and will not receive any pay. In this context, our overall objective should be to run the best possible service for our customers and any action that is likely to escalate the industrial action should be avoided. Care should be taken in allocating alternative duties and the sensitivity of staff being asked to undertake such duties must be taken into account.

(d) Method of Payments etc.

Contingency emergency payrolls procedures may need to be introduced in the event of prolonged action (i.e. continuous) and full details will be published if this becomes necessary.

(e) Payment of National Insurance Contributions - Staff on Industrial Action

No legal liability is placed on an insured person to pay national insurance contributions in respect of any pay period for which their gross earnings fall below the minimum earnings level. In order to qualify for

full National Insurance benefits however, a person must have paid contributions equivalent, in total, to at least 52 times the weekly minimum contributions rate in the corresponding fiscal year. Where any points on this matter are raised by staff they should be advised to contact their local Department of Social Security Office.

4. Staff on Annual/Compensatory Leave

Where staff have been rostered to take a period of annual or compensatory leave which includes a day of industrial action they should be regarded as being on authorised leave and payment should be made at the appropriate rate in the normal manner. In the event of continuous industrial action, payment will not be made for any leave rostered to start after the first day of the continuous industrial action if the staff concerned have not reported for duty in accordance with their roster in the meantime.

5. Sick Leave and Sick Pay

Any period of Sickness that coincides with the strike day must be supported by a medical certificate or letter from a General Practitioner. The certificate will also need to cover and prior period of sickness form 001 hours on the 7th January 2006.

In the absence of the above employees will not be eligible for Company Sick Pay.

6. Staff Service Provisions

It should be noted that for any purposes for which service with the Company is a qualifying factor, for staff on industrial action, the period of the industrial action will not count for such purposes.

7. Pensions, Retirements and Death Benefits etc.

Subject to the rules of individual schemes there must normally be continuity of contributions. Where staff are on industrial action and receive no pay, arrangements will be made for the deduction of arrears upon resumption of normal working. This will be achieved by making deductions at twice the normal weekly rate until arrears have been cleared.

Staff on industrial action who become eligible for retirement or death benefits during the period of the industrial action will be dealt with as if they have been at work normally, subject to adjustments of benefit to take account of any arrears of contributions which may have arisen.

**8. Staff Who Resign During the Industrial Action
- Subsequent Re-Employment**

It should be made clear to any member of staff who tenders his/her resignation during the industrial action that there can be no guarantee of re-employment at any future date.

9. Entry to London Underground Property

Staff rostered to work who do not report for duty have no automatic right of entry to any LU property.

10. Use of London Underground Property for Activities in Connection with the Industrial Action

The use of LU property, including staff canteens, for meetings connected with the industrial action or for picketing is not allowed.

11. Use of Staff, Spouse and Dependant Free/Privilege Travel and other London Underground Facilities - Staff on Industrial Action

Notice must be given to staff on industrial action that LU has suspended the right of use of free/privilege travel facilities for such staff, their spouses and dependants for the period of the industrial action. During that period, staff taking industrial action, their spouses and dependants must pay the appropriate public fare for travel on bus and train services on which their free pass is valid and on National Railway trains.

Also, during the period of the industrial action, staff on industrial action, their spouses and/or dependants have no right to make use of any other facilities provided by the Company.

12. Picketing

Section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 makes it quite clear that where picketing takes place it must be for the purpose only of peacefully obtaining or communicating information or peacefully persuading any person to work or abstain from working.

As a general rule, **the number of pickets should not exceed 6** at any entrance to or exit from a workplace.

The law gives no protection to pickets who indulge in threats, intimidation or violence, nor if they gather in such numbers as to cause intimidation or obstruction, nor if they make people or vehicles stop for the purpose of talking to them or their occupants. Threats or Intimidation by pickets are also covered by the Protection from Harassment Act 1997.

Where intimidation, obstruction or violence takes place the pickets will be liable to arrest and subsequent prosecution. It should be noted that it is a criminal offence to trespass on and refuse to quit railway premises.

Where Police assistance is required, the BT Police should be contacted on Auto 109. This arrangement applies equally to members of staff not on industrial action who experience problems in pursuance of their normal duties.

Under no circumstances should any picketing be allowed on LU premises. Further guidance is given in Appendix A.

13. Approaches by the media etc

Staff whilst on duty, or off duty who are wearing London Underground Uniform, should avoid engaging in any discussions with politicians or other members of the public regarding the dispute. If staff are approached by the media, for comments on the dispute, they should not offer any views but advise the media to contact the press office at Broadway. Support by particular individuals or groups other than employees and trade union officers on or around picket lines should be reported to the NCC who will then inform the Duty Press Officer.

14. Notification of Industrial Disputes

In order to meet LUL's statutory obligation to provide information to the Department of Employment, the Employee Relations Office, 6th Floor, 55 Broadway, will need to be notified of the number of staff participating in the industrial action, in accordance with the deadlines stated in a further communication to be issued, using the forms that will be attached.

APPENDIX A

CODE OF PRACTICE / PICKETING 1992 (REVISED) GUIDE TO THE MAIN POINTS

Section A - Introduction

- Purpose of Code to provide guidance on picketing to those taking part or organising picketing and employers, workers and members of public.
- No legal right to picket but peaceful picketing is lawful activity.
- Action can be taken if picket persuades someone to break contract of employment but exemption from liability in certain cases, e.g. trade dispute.
- Criminal law applies to pickets and picket lines just as it does everywhere else.

Section B - The Civil Law

- Picketing can be undertaken in contemplation or furtherance of trade dispute, (e.g. dispute over pay, conditions, etc.)
- Must be carried out by person attending at or near own place of work or Trade Union official accompanying employee for whom that Union official is responsible.
- **Only** purpose involved peacefully to obtain / communicate information / persuade person not to work.
- Secondary action not covered (sympathy / solidarity action involving workers whose employer is not involved in the dispute).
- Attendance must be at or near person's **place of work**, (i.e. premises of their employer from which they work / or from which work is administered).
- No protection where picketing without permission on or inside any part of private property.
- Trade Unions officials only covered where attending with employees who they have specifically been appointed to represent (N.B. Union Official cannot necessarily claim merely because employees belong to same Union as him / her that he / she necessarily represents them. Will depend on position of official in Union).

- Lawful purposes of picketing - no power for picket to require people to stop or compel them to listen to what they have to say. Person who decides to cross picket line **must** be allowed to do so.
- All picketing activity must be carried out peacefully. No authority for pickets to harass, cause fear, obstruct, interfere with, trespass or assault.
- Unlawful picketing actionable in Civil Courts. Injunctions, damages.

Section C - Picketing and the Criminal Law

- If picket commits criminal offence just as liable to be prosecuted as anyone else. N.B. criminal offence to use or threaten abusive or insulting words or behaviour, harass, cause fear of violence or provoke violence, obstruct highway, possess offensive weapon, etc.
- No right to require vehicle to stop.

Section D - Role of the Police

- Not function of police to take view of merits of particular trade dispute, they are there to uphold the **criminal** law.

Section E - Limiting Number of Pickets

- Generally pickets and organisers should ensure that no more than six at any entrance to or exit from workplace. N.B. frequently a smaller number will be appropriate.

Section F - Organisation of Picketing

- Functions of picket organiser:
 - should ideally have letter of authority from Union which he / she can show to police or people who wish to cross picket
 - should be available to give pickets advice if problems arise.
- Right to cross picket line. Everyone has a right to decide whether or not they will cross a picket line. Disciplinary action by Union against member who crosses picket line is actionable by member in Industrial Tribunal - unjustifiable discipline.

Section G - Essential Supplies Services and Organisation

- Anyone involved in pickets should take extra care to ensure that certain essential operations are not hampered. These include activities necessary to the maintenance of plant and machinery and the necessary safety procedures.

The above is intended as a summary only of various points contained in the Code of Practice.

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