

London Underground Limited
Attendance at Work Support Pack

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1. Introduction

This support pack has been produced for you to use in conjunction with the Attendance at Work Procedure.

It is important that you consider the following procedures/ guidelines when managing an employee's attendance:

- Disability Discrimination Act 1995 – Manager's Guidelines (November 12th, 2001);
- Flexible Working Guidelines (April 6th, 2003);
- Providing Reasonable Adjustments Procedure (currently being drafted by the Equality Unit);
- Work Life Balance Standard (January 27th, 2003);
- Lateness Procedure.

By following the mandatory processes outlined in this pack, you will deal with employees in a fair and reasonable manner and you will respect their contract of employment, employment law and good personnel practice. You will also meet all the requirements of the procedure. For new entrant employees, please refer to Section Eight of this pack.

Your role

You are responsible for recognising good and improved attendance, and for ensuring that employees understand the impact that absence of any kind has on customers and colleagues. This should be communicated as part of general management practice. This pack provides you with a clear step-by-step approach to managing attendance, allowing you to take into account individual specific circumstances to make effective decisions and manage each case professionally. This will enable London Underground to retain employees' skills and experience wherever possible, whilst dealing effectively with unsatisfactory attendance.

Support

Support for all aspects of the Attendance at Work Procedure and other related standards and procedures is available from your Human Resources / Employee Relations Manager.

Documentation and retention of records

Notes must be taken throughout the process, with decisions clearly documented. Decisions and documentation must be retained as outlined in this pack. All information should be used and stored confidentially and will only be made available by the employing manager for specific purposes.

2. Reporting and ongoing non-attendance

Initial reporting and ongoing contact

- It is the responsibility of the employee to make contact with you on the first shift/ working day of non-attendance before the start of that particular shift / working day. This will be subject to any mitigating circumstances relating to the nature of the non-attendance – for example, a person under a train, staff assault, near misses, traumatic events, non pre-authorised dependency leave, or illness prevents contact. Employees should contact the supervisor/ manager that they would have normally booked on duty with.
- At this first contact, you should endeavour to clarify the nature of the non-attendance and establish subsequent contact arrangements and timescales with the employee. If these arrangements have not been completed, a letter may be sent to the employee to make contact with you either by phone or letter to agree contact arrangements, if the employee is going to be off work through sickness for more than a week. Contact must be reasonable and dependent upon individual circumstances. The employee is required to notify you if there are any changes in their circumstances. This should include information such as changes to original intended date of return to work, instances where the employee is not staying at their home address, further medical certificates, and whether hospital treatment is required/ delayed etc.
- You must discuss with the individual whether they would appreciate the support of a trades union representative/ fellow worker at any meetings, should the employee continue to be off work through sickness. You should make the employee aware that it is his/ her responsibility to ensure his/ her trades union representative/ fellow worker is aware of the dates and times of any meetings with you. Where appropriate, the release of the trades union representative/ fellow worker will be facilitated. You should give the employee reasonable notice of any meetings.
- If the employee is unwell during their shift / working day and you or another manager send them home, this day is not classified as an item of non-attendance. However, the absence is classified as an item of non-attendance if the employee chooses to book themselves off duty. The employee will need to report to work for their next shift / working day as usual. If, however they feel too unwell to attend work, they must report their non-attendance as above. You will demonstrate due diligence to ensure employees who are at work are fit to be at work.
- If the employee fails to notify you promptly in accordance with the above, or fails to follow the agreed ongoing contact arrangements and timescales, you should attempt to contact the employee to ascertain reasons why the procedure has not been followed, and decide what action, if any, is necessary. For some short-term absences, this could be discussed upon the employee's return to work.
- Failure to comply with contractual requirements may result in suspension of Company Sick Pay, disciplinary action, or initiation of the write-off procedure. The

decision to permanently withdraw Company Sick Pay for a particular item of sickness can only be made at a disciplinary interview.

Certification

Employees are required to submit either a medical or self-certificate as follows:-

- Employees absent from duty for one to seven calendar days – self certificate required within seven calendar days of the first day of absence or no later than the day of the return to work if earlier;
- Employees absent from duty in excess of seven calendar days – a medical certificate is required within nine calendar days of the first day of absence. If there are mitigating circumstances that prevent this, you will establish a reasonable timescale with the employee as to when the certificate will be provided. Further medical certificates are required where the absence continues and should be supplied immediately following the expiry of the previous certificate, unless there are mitigating circumstances that prevent this. If this is the case, you should establish a reasonable timescale with the employee as to when the certificate will be provided.
- Towards the end of the period of a medical certificate, the employee would be expected to make contact with you to confirm the date and time of their impending return to work.
- For any spells of non-attendance when an individual has irregular/ unsatisfactory attendance levels during bank/public holidays or periods of industrial action, a medical certificate can be requested in accordance with corporate policy. In these circumstances, you must state the reason for requesting a medical certificate, where normally a self-certificate would suffice. If the employee is required to pay for this certificate, LU will reimburse this cost.

Employees who fall ill whilst travelling abroad

- If an employee falls ill outside of the UK whilst on annual or special leave, they must produce acceptable documentation signed by an accredited medical practitioner, together with the employee's contact address and telephone number. This should be provided as soon as is practicable stating the nature of the illness, the date of commencement of the sickness and whether the employee is fit to travel to the UK.
- If the employee is declared unfit to travel, the certificate must give an indication of the date the employee is likely to travel, if this is after the last day of the authorised period of leave. Employees who are fit to travel must, at the end of their leave period, return to the UK and submit a medical certificate signed by their UK Doctor in the normal way.

Employees who wish to travel abroad whilst off work through sickness

- Normally, where annual leave is pre-authorised, you will agree an employee's request to travel abroad whilst off sick, but only where the employee's medical practitioner has agreed the employee can travel. In the event that travel abroad is not

pre-authorized, you will consider the request (which may include calling for medical reports). This request and your approval may be given in writing or over the phone. You will confirm your decision in writing or over the phone to the employee. You will note any decisions made, providing a clear rationale for your decision.

- If you agree an employee's request to travel abroad whilst off sick, the pre-authorized period of annual leave will be deducted from the employee's annual leave entitlement. If the employee returns from annual leave to immediate sickness absence, you will decide whether to link the items of non-attendance together as one item of non-attendance. This would normally be the case where an employee returns immediately from annual leave to sickness absence and the reason for absence is related to the recent sickness absence.

3. Returning to Work

An employee should contact you to confirm the date they will be returning to work. This should be done, where appropriate, at least two days before the employee intends to return to work.

The Return to Work Interview (RTWI)

- If an employee has taken/ is taking medication that has been classified by London Underground Occupational Health (LUOH) as not affecting an employee's ability to undertake safety critical work, a booking on check prior to starting their duty is sufficient and will be undertaken as a minimum requirement to enable you to be confident the employee is fit for normal duties. A full RTWI will take place as soon as is practicable thereafter.
- Where it is unclear as to whether medication taken or being taken may affect the employee's ability to undertake safety critical work, the employee will not start their duty until a full RTWI has taken place.
- Where appropriate, advice and guidance must be sought from LUOH.
- A RTWI is used to:
 - Welcome the employee back to work;
 - Provide an opportunity for the employee to reaffirm the reason for non-attendance;
 - Determine if the employee has undergone any medical consultation, and identify the implications of any professional advice;
 - Confirm with the employee about any medication they have taken/ are taking;
 - Ascertain whether a referral to LUOH (including employee assistance) might help;
 - Identify whether there are any necessary intermediate adjustments required to facilitate the return to work;
 - Check whether there are any underlying problems causing their non-attendance;
 - Confirm whether any action can be taken, or support provided, to help prevent any future absence;
 - Remind the employee of the Attendance Standard and the Attendance at Work Procedure.

4. Attendance review

Where the standards of satisfactory attendance have been breached, or you have identified a pattern of non-attendance that is causing concern, you should review the employee's overall attendance record, incorporating any other information relating to their attendance (such as information from the RTWI) before deciding what action to take.

- Standards of satisfactory attendance have not been met where:
 - In any 13 weeks, there are 2 or more items of non-attendance;
 - In any 26 weeks, there are 2 or more items of non-attendance totalling 5 or more working shifts/ days.
- Patterns of attendance that may cause concern (but have not breached the above standards) may include:
 - persistent non-attendance that is shown to occur at regular times;
 - when the length of absence seems incompatible for the stated cause, following advice and guidance from LUOH;
- Any part of a shift/working day will not be included as an item of non-attendance when the employee is specifically sent home by you or another manager. Any subsequent days' non-attendance will be included, taking into account any mitigating circumstances.
- An employee may return to work, then subsequently take more time off related to the recent sickness absence within a short period of time. You should take specific circumstances into account when deciding whether to link these items of non-attendance together as one item of non-attendance.
- Employees who undergo treatment and/ or rehabilitation for a drug and/ or alcohol condition under the guidance of DAAS (and are not able to be at work) are recorded as on Special Leave with Pay, irrespective of whether the employee has already been off work for some time and is covered by a medical certificate. Some employees obtain medical certificates at the outset of treatment – these employees should be regarded as on being on sick leave and in these circumstances, the sickness will not count towards any disciplinary action for non-attendance.

5. Decision on the course of action to be taken

It is important that each case is dealt with individually and the appropriate course of action taken.

Conduct and Fitness for Work

This section outlines the difference between non-attendance related to **conduct** and non-attendance related to **fitness for work**.

In many instances the difference between **conduct** and **fitness for work** will be clear.

However, if it is less clear, you should identify:

- Whether recurring short term absences have similar causes / symptoms / diagnoses;
- Whether the employee has sought medical advice for recurring symptoms / problems;
- Whether it is appropriate to ask the employee to provide General Practitioners certificates to determine the appropriate course of action;
- Whether there is a pattern of non-attendance that is causing concern.

You should contact LUOH for advice as appropriate.

5.1 Conduct

Where the employee has been identified as infringing the attendance standards (or a pattern of non-attendance has been identified), and you decide not to proceed to a Local Disciplinary Interview (LDI), you should meet with the employee to confirm that no disciplinary action will be taken in this instance. This should take the form of a discussion or coaching session between you and the employee. Often the right word at the right time is all that's needed to encourage and help the employee to improve their attendance.

When making this decision, the following should be considered:

- The employee's attendance record prior to the current period(s) of absence. For example, disciplinary action would not take place if the employee had no absences from work in the previous 52 weeks;
- The employee's action to minimise their non attendance;
- Any actions the employee has taken to try to prevent recurrence of non-attendance;
- The employee's genuine willingness to improve their attendance.

Once you have decided not to proceed to LDI, you must still have a discussion with the employee. This discussion should:

- Highlight the company's view of unacceptable attendance and agree remedial actions;

- Confirm that formal disciplinary action may be taken if an acceptable level of attendance is not reached and/ or maintained.

You must keep notes of your decision and the rationale behind it, backed up by any supporting evidence, including any action the employee has agreed to undertake.

Formal action under the Discipline at Work Procedure

If the employee's attendance continues to fall short of the standards of satisfactory attendance required, or an employee continues to have a pattern of non-attendance that is a cause for concern, despite previous guidance and/ or warnings, you would normally refer these matters via the disciplinary procedure (LDI/ CDI).

As this stage of the procedure is formal, the employee has right of representation and appeal.

Where you have decided that formal action is necessary under the disciplinary procedure, you will normally consider:

- An Oral Warning at an LDI, valid for (the maximum of) 26 weeks, for a first infringement of the Attendance at Work Procedure;
- A Written Warning at an LDI, valid for (the maximum of) 52 weeks, for a second infringement of the Attendance at Work Procedure, where an Oral Warning is still valid;
- Referring the matter to a CDI, where there has been a further infringement of the Attendance at Work Procedure and a Written Warning is still valid, to consider issuing a Final Written Warning (valid for 52 weeks);
- Referring the matter to a CDI, where there has been a further infringement of the Attendance at Work Procedure and a Final Written Warning is still valid, to consider dismissal.

Note 1:

An infringement of the Attendance at Work Procedure is defined as:-

- Attendance standards have not been met (i.e. 2 items in a 13 week period/ 2 items of 5 or more shifts in a 26 week period;
- A pattern of non-attendance that is a cause for concern.

Note 2:

Any warnings issued are valid from the date of the breach. In Attendance cases, the date of the breach is the last day of absence for a particular spell of non-attendance prior to resumption to duty.

5.2 Managing fitness for work

Fitness for work relates to a need for managed rehabilitation or where there is an underlying medical condition which has a significant effect on an employee's attendance and/ or performance. This could cause either lengthy absences, recurring short-term

absences, or below standard performance. Non-attendance of this nature will be dealt with as follows:-

When managing **fitness for work** you should:

- Ensure that contact with the employee is maintained in line with the initial and ongoing contact arrangements outlined in Section 2;
- Determine, if appropriate, whether medical interventions are possible to facilitate an earlier return to work;
- Contact LUOH for appropriate advice on:-
 - The likelihood of the employee continuing the present pattern of non-attendance in the future
 - The prospect of the employee being able to attend more regularly
 - Whether the medical condition is a result of, or is aggravated by the nature of the employee's duties.
- Arrange a Case Conference as early as possible to consider the following in the order shown:
 1. Step One – actively consider making reasonable adjustments (if required and appropriate);
 2. Step Two – actively pursue suitable alternative employment;
 3. Step Three – as a last resort and only having exhausted Steps One and Two, consider termination of employment on medical grounds.

Case Conference

A Case Conference is designed to address the issues associated with an employee's fitness for work and to assist in improving an employee's attendance.

The Case Conference consists of the following:

- The employee
- The employing manager
- The employee's representative (should the employee choose to be accompanied by a Trades Union Representative/ fellow worker
- A Human Resources representative.

The Case Conference in operation

- All parties involved in the Case Conference should fully prepare themselves prior to any discussions.
- No discussions will take place at the Case Conference about referring the case to the disciplinary procedure.
- The Case Conference should always be conducted in a friendly atmosphere with the emphasis on assisting the employee.

- The Case Conference will formulate and endeavour to agree an action plan with timescales to address the issues discussed. This action plan will be tailored to the individual's needs. This action plan must be abided to by all parties.
- The Case Conference will meet as necessary to review any actions agreed and to agree subsequent actions (if applicable).
- The employee's case will continue to be monitored by the Case Conference until it is mutually agreed that this is no longer necessary, unless the employee fails to comply with the agreed actions.

Each Case Conference will be different. The circumstances of the employee and the needs of the business must be given detailed consideration.

Step One - Reasonable Adjustments – temporary or permanent

In returning to work, the employee may require temporary or permanent adjustments to their job in order to improve and maintain acceptable standards of attendance. If the employee has a disability that is within the scope of the Disability Discrimination Act (DDA), you must follow the Company's processes developed to ensure compliance with its provisions.

It is the role of the Case Conference to consider the following options, seeking advice and guidance from LUOH where necessary:

- Altering work location
- Authorising time during the working day to attend counselling services provided by LUOH or LUOH approved external agencies
- Training
- Acquiring or modifying equipment
- Restricting duties
- Agreeing shift changes (including days of work and start/ finish times). Consideration must be given to the effect on other staff.

This list is not exhaustive. Other adjustments may be considered.

The Case Conference must take into account, complying with, where necessary, the following:

- Disability Discrimination Act 1995 – Manager's Guidelines (November 12th, 2001)
- Flexible Working Guidelines (April 6th, 2003)
- Work-Life Balance Standard (January 27th, 2003)
- Providing Reasonable Adjustments procedure (currently being drafted by the Equality Unit).

Step Two - Suitable Alternative Employment (Medical Redeployment) on a permanent basis

- You should proceed in accordance with item 6.2.8 of the Main Agreement for Operational Staff and Operational Managers (October 22nd, 1992) and the Company's procedures covering medical redeployment and protection of earnings.
 - Where reasonable adjustments cannot be made, reasonable adjustments that are made do not satisfactorily improve the employee's attendance or LUOH confirm that an employee is no longer able to do his/ her job for medical reasons and is unlikely to become fit again in the foreseeable future, the Case Conference will consider the matter.
 - If appropriate, the employee will be given notice of termination of employment on medical grounds and advised of his/ her right of appeal. The employee will be entitled to be accompanied by a Trades Union Representative/ fellow worker at any meeting to discuss this matter.
 - If the employee wishes to remain in employment, the case conference will seek advice from LUOH regarding the employee's ability to do an alternative job. The employee's competences will be identified, in addition to the non-medical requirements for his/ her current grade.
 - The employee will be referred to the SDC (or equivalent) for attempts to be made to match the employee with existing vacancies. If no current vacancies exist, the search will continue and attempt to match the employee with future suitable vacancies.
 - If a suitable vacancy is identified, the employee will be deployed according to the terms and conditions of the alternative position. Where applicable, the employee will be entitled to protection of earnings on medical grounds in accordance with company policy.
 - If no suitable alternative job is found, the case conference will keep the position under review for a further three months. If the employee is at work, you will temporarily employ the individual on restricted duties (as advised by LUOH) on normal salary.
 - If, at the expiry of the three month period, no suitable alternative job has been found, the employee will be advised of this at a meeting of the case conference. If there is a realistic prospect of any such job being found in the near future, the review period will be extended for a maximum of a further month.
 - If, after this period has elapsed, no suitable job has been identified, the case conference will consider Step 3 – Termination of employment on medical grounds.
 - The employment of a person in these circumstances will not be terminated until a minimum of 39 weeks has elapsed from the time the employee first became

unable to carry out his/ her job for medical reasons. However, the employee may find it more advantageous (emotionally and/ or financially) to be medically terminated earlier than this. Employees with less than six years' continuous service will only be entitled to 24 weeks full sick pay. The employee may be entitled to statutory or other benefits.

- An employee's service may be terminated before 39 weeks have elapsed where:
 - the employee does not wish to be considered for redeployment;
 - it is clear no suitable jobs are likely to be identified;
 - the employee refuses a reasonable offer of suitable alternative employment.
- Instances where the employee wants to remain employed, but all of the evidence indicates that this is not possible, should be handled with the utmost sensitivity. The case conference should consider the employee's emotional state and any impact in relation to decisions made (e.g. an employee may find it difficult to accept that he/ she will not be returning to work/ continue to be employed).

Step Three - Termination of Employment on Medical Grounds

As a last resort, where all other options have been exhausted, the Case Conference will discuss termination of employment on medical grounds.

The Case Conference will ensure that:

- The case has been fully reviewed and all possible options have been considered – Steps One and Two have been exhausted.
- The employee be allowed time to take on board this possible course of action and to discuss the matter with their partner and/or family.
- The case has been referred to LUOH and they have provided relevant details to support any decision. Medical reports from medical practitioners/ specialists/ consultants may need to be obtained (with assistance from LUOH).
- An ill-health pension estimate has been obtained prior to termination. The Data Protection Act (1998) provides for the employee to give his/ her permission to request this.

Following this discussion, the Case Conference will agree to disband where it is no longer necessary to continue to monitor the case. Separately, you will make your decision whether to terminate the individual's employment on medical grounds. If you decide not to terminate, the Case Conference will be reconvened to discuss next steps.

If your decision is to terminate the individual's employment on medical grounds, you will:

- Arrange a convenient time to meet with the employee to terminate their employment. You will send a letter to the employee, stating the reasons for the meeting.
- Confirm to the employee that he/ she is entitled to be accompanied at this meeting by a trades union representative/ fellow worker of their choice (should the employee choose to be accompanied).

At the meeting, you will:

- Confirm your decision, summarising the evidence and reasons for your decision
- Provide the employee with the termination date
- Advise the employee of the process for a decision to be made on the level of pension, if any, that will be paid to the employee
- Confirm with the employee that he/ she has the right of appeal against your decision to terminate their service on medical grounds:
 - If the employee decides to appeal, he/ she must do so within 14 calendar days of the date of the letter terminating their employment.
 - The employee should submit their appeal in writing to the appropriate senior manager. If the appeal is on the grounds of medical evidence, the senior manager will then consult with the Head of London Underground Occupational Health.
- Confirm all of the above in writing to the employee.

The Appeal

- The appeal interview should be conducted by a senior manager. The application of the Attendance at Work Procedure and the evidence upon which the decision to terminate employment was made, should be reviewed. Advice should be sought from the Head of LUOH as appropriate.
- The employee and/ or their representative should be given the opportunity to comment and present their case.
- Upon considering the appeal, the senior manager may substitute whatever decision is deemed to be reasonable.

6. Lateness

Good timekeeping is essential, particularly in operational roles that directly affect the level of service that the company provides. **Lateness is considered separately to sickness and unauthorised absence.**

You should interview employees as soon as possible upon their reaching work to ascertain the reason for lateness. Subsequent action will depend on the following factors:

- How late the employee is
- The reason for lateness
- How proactive the employee was in notifying you that they were going to be late and minimising their lateness
- How often the employee has been late in the past

You must make a note of your interview with the employee and you may wish to ask them to provide a written account of the circumstances surrounding their lateness.

Staff should not normally be deducted any pay for lateness where they are able carry out productive work for the particular shift.

Lateness Review

If you identify a pattern of lateness or the employee has been late on 3 occasions in 26 weeks or on 5 occasions in any 52 weeks, you should review their overall lateness record, together with any other information surrounding their lateness before deciding how to proceed. In certain circumstances, you may wish to interview the employee and probe the issues further before deciding how to proceed.

Where the employee has been identified as infringing the standard (or a pattern of lateness has been identified that is a cause for concern) and you decide not to proceed to LDI, you should meet with the employee to confirm that no disciplinary action will be taken in this instance. This should take the form of a discussion or coaching session between you and the employee. Often the right word at the right time is all that's needed to encourage and help the employee to improve their timekeeping.

The discussion or coaching session should:

- Highlight the company's view of unacceptable time-keeping and agree remedial actions
- Be noted and the situation reviewed within an agreed timescale
- Confirm that formal disciplinary action may be taken if an acceptable level of timekeeping is not reached

You must keep notes of your decision and the rationale behind it, backed up by any supporting evidence, including any action the employee has agreed to take to minimise future lateness.

If formal action is deemed necessary, you must refer the matter to the disciplinary procedure.

7. Infectious Diseases

You should ensure that employees are aware of their responsibility to alert management of contraction of, or coming into contact with, an infectious disease.

CONTACT LUOH FOR FURTHER ADVICE/ GUIDANCE AND FOR A CURRENT LIST OF CLASSIFIED INFECTIOUS DISEASES.

Coming into Contact

Once the employee has notified you that they have come into contact with an infectious disease, you must tell them that they are to report for duty in the normal way, unless an appropriate Public Health Physician certifies that absence from duty is necessary owing to the risk of infection.

In the instance when the employee has notified you that an appropriate Public Health Physician certifies a necessary absence from duty, you must immediately inform LUOH and your ER Manager. You must obtain the certification (medical statement) from the employee as soon as is possible.

Together with advice from LUOH, you will determine the period of absence. It may be necessary to review this period at a later stage. This leave will be classified as special leave with pay.

Contracting the Disease

You must ensure the employee knows that they must notify you immediately and provide you with a medical certificate if they develop any symptoms of the disease with which they have come into contact. Such absence will be dealt with as normal sick leave, but will not count towards disciplinary action.

8. New entrant employees

- All new entrants will be required to serve a probationary period of not less than three months and not normally more than six months. In exceptional circumstances, this may be extended to nine months.
- For new entrants, service may be terminated by the employing manager (Manager Grade G or above) without referring the matter to a disciplinary interview where:
 - Training has failed;
 - Performance is poor;
 - Attendance is unsatisfactory;
 - Unsatisfactory references are received.
- Advice and guidance will be given to individual employees to help them improve their conduct/ behaviour or performance;
- Where conduct/ behaviour or performance standards are not met, employees will be informed in writing that if there is no improvement, their service may be terminated.
- The manager will meet with the new entrant where conduct/ behaviour or performance fails to improve. The employee will be given the opportunity to have a Trades Union representative/ fellow worker present at any interviews where the employee's service may be terminated;
- Any other breach of standards/ rules/ procedures will be dealt with through the normal disciplinary procedure.

9. Medical appointments

The standard requires employees to attend to personal affairs, including appointments of a non-urgent nature (eg hospital, doctors, and dentists) outside of their normal working hours, whenever possible.

However, where it is not possible to arrange these appointments outside of the employee's normal working hours, and only part of the shift is required, you will consider requests for appropriate paid special leave. If a whole shift is required and the employee has not been able to make appropriate cover arrangements for the particular shift, the employee may be expected to take annual leave. If this is not possible, you will consider requests for paid special leave.

If the employee has a condition / illness which is covered by the DDA, you should still encourage them to arrange appointments of a non-urgent nature outside of their working hours. If this is not possible, the employee must be granted special leave with pay under the conditions of the DDA. Such absence must not be classified as an item of non-attendance.