

## HR Policy

**P085 A3**

# Attendance at work policy and procedure for Professional Services, Rail and Surface Transport

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## 1 Policy

We understand that occasionally you will feel too unwell to come into work. Our policy is to ensure that anyone who is absent from work due to sickness is managed in a supportive, fair and consistent way. We do of course have to balance this with the business need for acceptable attendance.

We will do all we can to support your return to work and where appropriate, make reasonable adjustments which might help this. If we think your level or pattern of absence is becoming a problem we will try to understand whether there is anything else we can do to support you and help you achieve and sustain acceptable attendance before we take any formal action.

We have a procedure in place to make sure everyone understands their responsibilities and this provides you and your manager with a framework to work within, so that where possible, we can support you to improve and maintain an acceptable level of attendance at work.

In line with the Equality Act 2010, we are committed to ensuring equal treatment of all individuals working within TfL and creating a work environment free from discrimination and harassment.

In applying the Attendance at work policy, we will give consideration to whether there are any reasonable adjustments that could be made that will provide support at work or assist with a return to work. You might find it helpful to become familiar with the following:

- the Equality and inclusion policy
- the reasonable adjustment page on Working at TfL
- and the range of support for your health and mental wellbeing from Occupational Health – this is captured in detail on Working at TfL.

## 2 Scope

This document applies to employees of TfL, Docklands Light Railway Limited, Rail for London Limited, London Bus Services Limited, London Buses Limited, Victoria Coach Station Limited who are on TfL employment contracts (Pay bands 1-5 and Directors) and those staff on predecessor organisations' employment contracts where the individual has transferred to the employment of TfL.

## 3 Definitions

For the purposes of this policy we consider short term sickness absence to be intermittent absences of less than 28 consecutive calendar days where the reasons for the absences are not linked. Long term sickness absence applies to periods of absence of 28 or more consecutive calendar days.

## 4 Responsibilities

Please ensure you are familiar with this policy, and the need to keep absence from work to a minimum and please follow the requirements, such as reporting your absence and providing the medical information we need.

And we will ensure the following:

- that you understand the working arrangements and the procedure for reporting absences from work
- that you are aware of the level of attendance expected
- that all related matters are dealt with promptly, sensitively and in accordance with the procedure we have outlined in section 5
- that we will consider requests for workplace adjustments and we will make reasonable adjustments under the Equality Act 2010 where appropriate – guidance is available on [Working at TfL](#)
- that we will consider all options available to maintain employment.

#### **4.1 People Management Advice (PMA) Specialist**

Please seek advice and guidance if required and call 1729 to find out who your PMA Specialist is.

#### **4.2 The role of the companion**

Please refer to the TfL Management System – Working at TfL for the role of the companion.

#### **4.3 Occupational Health**

There are a number of services that Occupational Health provides and it is useful to become familiar with their [Working at TfL](#) pages.

### **5 Procedure**

The following procedure supports the policy and is divided into five sections:

- sickness absence reporting procedure (for all types of absence)
- short term sickness absence
- recurring short term sickness absence due to disability and /or underlying medical condition and long term sickness absence
- non-sickness related absence
- time keeping and lateness.

#### **5.1 Sickness absence reporting procedure**

##### **5.1.1 Reporting sickness absence**

You must report any absence to your line manager as soon as possible and no later than one hour prior of your normal start time. In the event that your line manager is not available, you should report your absence to another senior member of the department. In areas where specific local reporting instructions apply, then these should be followed in the first instance.

You should contact your line manager by telephone with the following information:

- the nature of the illness or injury

- an expected return date, when possible
- contact details
- any outstanding or urgent work that requires attention.

If a return date is not provided, your line manager will discuss with you when to make further contact to provide an update.

The information provided to your line manager will enable them to help provide any appropriate support and to plan cover for your absence.

Only in exceptional circumstances are text messages or email an acceptable way of reporting an absence. All messages must be followed up with a telephone call as soon as is practicably possible.

Please contact your line manager if there is a change to the estimated return to work date or a change to the agreed contact date.

Your line manager should record the absence through Your TfL in the SAP portal. If there are problems in doing this then HR Services should be contacted.

### 5.1.2 Certification requirements

Absence from work for one to seven calendar days - absence from work for a period of one to seven days will require self certification. The form can be found on Working at TfL or can be launched via the Your TfL portal if you have access. This should be completed as part of your return to work process. If completed on paper, line managers will need to ensure the details on the form are entered on the Your TfL portal. The forms can then be retained locally in a confidential and secure place. If completed via self service this will be done automatically.

Absence from work in excess of seven calendar days - you must obtain a certificate (a Statement of Fitness for Work) from a certified medical practitioner. The certificate must be provided to your line manager within nine calendar days of the first day of sickness absence. Where sickness absence continues, you must provide further continuing certificates within two calendar days of the previous certificate expiring. Please note, you must provide certificates to cover you from the eighth day of absence. Your manager will keep certificates locally in a confidential and secure place.

If your medical practitioner provides a certificate stating you are fit for work, you should inform your line manager immediately who will discuss with you any additional measures that may need to be taken to facilitate a return to work. This may take place at a return to work interview (see section 5.1.7). If appropriate measures cannot be taken, you will most likely remain on sick leave and your line manager will set a date to review the situation.

#### **Occasions when a medical certificate may be required**

There may be occasions when a medical certificate is required for sickness absence of less than seven days. It may be appropriate for your line manager to ask for a medical certificate if:

- you are absent when rostered to work during a Bank/Public Holiday

- other leave has been refused, for example, annual leave
- you are absent on days of industrial action
- there is concern about the reason for absence
- frequent short-term absence.

In these cases, if you are invoiced for a doctor's medical certificate, we will reimburse reasonable expenses under the Business expenses policy, on provision of a receipt. If a doctor refuses to provide a medical certificate, your line manager must seek the advice of the PMA Specialist.

### **5.1.3 Communication when absent due to sickness**

Please inform your line manager as soon as possible if you are not going to be at your home address during your sickness absence and provide a contact telephone number.

You should not travel abroad while on sick leave without the prior written consent of your line manager. It may be appropriate for your line manager to consult with a PMA Specialist and Occupational Health and consider any medical reports before any such decision is made. If consent is given then you must provide a contact address and phone number and make contact at agreed times. Please be aware that failure to do so may result in suspension of TfL sick pay and disciplinary action under the Discipline at work policy and procedure.

If you have pre-arranged holiday booked and wish to go on annual leave, this will be taken as annual leave and not sick leave (with the prior written permission of your line manager).

### **5.1.4 Taken ill whilst at work**

If you are taken ill or injured while at work and need to go home please report this to your line manager. This day will not be classified as sickness absence. Any following days will be classified as sickness absence and should be reported and certified as outlined above.

### **5.1.5 Taken ill (or injured) whilst on annual leave**

If you are taken ill or injured whilst on annual leave then this will be treated as sickness absence (rather than annual leave) provided that a medical certificate from a certified medical practitioner covering the full period of sickness is supplied (in accordance with section 5.1.2) and the reporting requirements are fulfilled.

### **5.1.6 Taken ill (or injured) while abroad (whether or not on annual leave)**

If you fall ill (or are injured) while abroad then you must provide a medical certificate which is legible and in English (or a professional translation provided) and signed by a suitable accredited medical practitioner covering the period concerned (in accordance with section 5.1.2). If you are charged for a translation then reimbursement of reasonable expenses will be made under the Business expenses policy, on provision of a receipt. If you are declared by an accredited medical practitioner as unfit to travel to the UK then you must also provide the following information as soon as practicable:



- your contact address
- contact telephone number
- the date of commencement of the illness
- the nature of the illness
- the date when you will be fit to travel back to the UK. If this is after the last day of the authorised period of leave then an estimated date of return will need to be given.

If you are fit to travel but are still sick or injured, please discuss the ongoing sickness absence and return travel to the UK with your line manager who should seek advice from a PMA Specialist.

There is no entitlement to compensatory leave days for illness over a Bank/Public Holiday/rest day.

### **5.1.7 Returning to work**

Please give your line manager as much notice as possible of your fitness to return to work. You should also ensure you notify your line manager of any medication you are taking and the effects (if any) before resuming duties at work. Your line manager should consider the effect of the medication and carry out any necessary checks to ensure fitness for work whilst taking the medication. An extra duty of care applies if you are returning to a safety critical role. Further information is available on the Occupational Health pages of Working at TfL.

#### **Return to work meeting**

A return to work meeting will take place wherever possible on the first day of return or as soon as possible thereafter for any sickness absence. The meeting will be used to:

- review your general fitness to carry out duties
- discuss any medication taken or being taken and its effect
- discuss the likelihood of recurrence of the sickness and/or injury and any steps which could be taken to prevent further sickness absence
- remind you of the requirements of the attendance at work policy and procedure
- provide you with an update on any work matters missed whilst absent.

Notes from the return to work meeting should, if possible, be agreed and recorded in Your TfL.

Advice and guidance may be sought from Occupational Health and reasonable adjustments may be considered in order to assist your return to work.



### 5.1.8 Medical appointments

Please make every effort to attend to personal affairs, including appointments of a non-urgent nature (e.g. doctors and dentists) outside of normal working hours.

If you are receiving ongoing treatment and are in need of a referral to a specialist (medical or dentistry) or are considered as disabled as defined under the Equality Act 2010, then you should be granted paid time off to attend medical appointments. This includes support provided by Occupational Health for physiotherapy and counselling sessions.

In cases of emergency, short-term and time-defined medical treatment (medical or dentistry), physiotherapy and operations, you will normally be granted paid time off, but will be expected to attend work before and after any treatment where possible.

For ad hoc or individual medical appointments, for example, GP appointments or elective surgery, consideration should be given to whether the time can be made up through flexible ways of working. If a whole shift/day is required to attend an appointment it may be more practical to take annual leave.

Time off for ante or post-natal care will be taken in accordance with the Work life balance policy. Time off for IVF treatment will be taken in accordance with the Work life balance policy and the Guidelines for employees undergoing fertility treatment. Your line manager should contact our PMA team for guidance.

In addition guidelines are also available on the menopause and these guidelines can be referenced in accordance with the Work life balance policy. These documents are all available on Working at TfL.

### 5.1.9 Disciplinary action

In addition to TfL sick pay being stopped, disciplinary action in accordance with the Discipline at work policy and procedure may be taken if you are unauthorised absent which is defined as the following:

- failure to report any absence in accordance with the requirements set out in this policy, without good reason
- failure to complete a working day or shift without authority
- failure to keep in contact with your line manager without good reason and/or failure to provide certification as required
- dishonesty in the completion, or submission, of Statements of Fitness for Work
- found to be acting in a way incompatible with doctor's advice
- found to be carrying out activities that are not consistent with the reason given for absence
- failure and/or refusal to attend return to work meetings and review meetings without good reason.



## 5.2 Sickness absence

This section relates to sickness absence that does not last, or is not likely to last, for a lengthy period of time.

If recurring absences are as a result of a disability and/or an underlying medical condition, then they will normally be dealt with under the absence due to disability and /or underlying medical condition procedure. Please see section 5.4 for further information.

## 5.3 General principles

We expect our people to attend work but it is recognised that some levels of absence through ill-health are unavoidable. Whilst not seeking to question whether an absence is genuine, or imply that the absence is the fault of the individual, we have set a standard of attendance to ensure a high level of service is maintained and the impact on our customers and our people is minimised.

An item of sickness absence is defined as one or more continuous complete working day(s)/shift(s) of sickness absence.

You are considered to have an unsatisfactory level of attendance if you have been absent:

- for 2 or more items in any 13 week period
- for 8 or more working days/shifts in any 26 week period
- for 4 or more items in any 52 week period
- where a pattern of sickness absence has developed over a period of time that is causing concern, but has not resulted in a breach of the above attendance standards. Your line manager may decide that a review meeting is necessary to address any issues which may have contributed to this sickness absence.

If you return to work following sickness absence and are then absent again for the same reason within two consecutive calendar days of returning to work, the two periods of sickness absence will be linked and counted as one item.

Approved special leave or family leave is not sickness absence. It is therefore not counted in recording unsatisfactory levels of attendance and is treated separately from the Attendance at work policy and procedure. Please see the Work life balance policy on Working at TfL.

Unauthorised absences are not considered as sickness absence and will be managed under the TfL Disciplinary policy and procedure. The Disciplinary policy and procedure is available on Working at TfL.



Below are the stages in the procedure for dealing with unsatisfactory levels of sickness absence.

Stage	Absence	Possible Action
1	First instance of unsatisfactory sickness absence	Informal advice and guidance with written confirmation of the points discussed
2	Further unsatisfactory levels of sickness absence within 52 weeks of Stage 1	Written warning
3	Further unsatisfactory levels of sickness absence within 52 weeks of receiving a Stage 2 warning	Final written warning
4	Further unsatisfactory levels of sickness absence within 52 weeks of receiving a Stage 3 warning.  Further unsatisfactory levels of sickness absence between 53 and 104 weeks of receiving a Stage 3 warning.	Dismissal  Final written warning (return to Stage 3)

### 5.3.1 Stage 1 - informal advice and guidance

If there has been unsatisfactory attendance due to sickness absence, then your line manager will arrange an attendance review meeting with you. The purpose of the meeting is to review attendance and consider whether any appropriate support or guidance can be given.

There is no right to be accompanied by a trades union representative or workplace colleague.

At the meeting, your manager will seek to understand the reasons for the absences. You will be given appropriate support and encouragement with the aim of improving attendance, together with a copy of the Attendance at work policy and procedure.

Where you are suffering from a condition that is likely to be long term, repetitive or may be considered a disability under the Equality Act, your manager should contact Occupational Health for guidance. Advice should be requested as to whether there is an underlying medical condition which is causing the recurrent periods of absence. If this is the case an assessment should be made to ascertain whether there are any reasonable adjustments that could be made. A PMA Specialist can also assist. The procedure for managing absence due to a disability and/or an underlying medical condition is likely to be followed in these circumstances.

If you request a referral to Occupational Health then where possible please explain the reasons. Your line manager will then need to contact Occupational Health. Please note that Occupational Health is not to be considered as an alternative to visiting your GP.



## **After the review meeting**

Your manager should confirm to you in writing the main points of discussion at the review meeting.

If there is an immediate and sustained improvement over the next 52 weeks there will no longer be an issue to address. If it becomes apparent that addressing sickness absence through the informal process is not improving attendance your manager may consider it appropriate to address your sickness absence through the formal process.

Where there are further levels of unsatisfactory sickness absence then the formal procedure will be followed. This process and the roles of those involved is outlined below.

## **Trades union representatives**

If you are a recognised trade union representative no formal action will be taken as outlined in 5.3.2 until a full time officer of your trade union has been contacted and informed of the circumstances.

### **5.3.2 Stage 2 - formal action**

Where there are further levels of unsatisfactory sickness absence following the completion of Stage 1 of the process then the procedure outlined below will need to be followed.

## **Unsatisfactory sickness absence**

Your manager should review the absences and speak to you before referring to a formal review. This is required to ensure that the reasons for the absences are understood, all the relevant information has been recorded, and whether any new information needs to be shared.

Following this discussion your manager may invite you to a formal review. If your manager does not invite you then they should make a record of the discussion including why they did not proceed.

In the event that further absences have occurred between the review meeting and the formal review, resulting in a new breach of the triggers, your line manager must hold a further review meeting to discuss the latest trigger.

## **Invitation to a formal review**

Your line manager will invite you to a formal review and will do this in writing ensuring that:

- seven calendar days notice is given, including the date, time, location and the reason for review – ‘unsatisfactory attendance between (date) and (current date)’
- a copy of any documentation to be discussed is attached
- you have been advised of your right to be accompanied by your trades union representative or workplace colleague.



If you cannot attend due to circumstances outside of your control and unforeseeable at the time the review was arranged, or your companion cannot attend on the proposed date, please suggest an alternative time and date. This date must be reasonable and not more than seven calendar days after the original date.

The meeting chair will seek to take all reasonable steps to arrange a suitable date within seven calendar days of the original review. Should the chosen companion not be available then an alternative companion should be sought. This is to ensure the matter is resolved in a timely fashion. The seven calendar days may be extended by mutual agreement.

Please inform the manager chairing the review of the name of your companion no later than three calendar days prior to the review.

Any documents you or your companion wish to use during the review should, where possible, be submitted to the manager chairing the review three calendar days before the review.

You will normally be required to attend work prior to and/or after attending the review and will suffer no loss of pay.

The following individuals will be present at the review:

- the chair, who is normally the your line manager
- yourself and your companion (where requested)
- a note taker may not be required to attend but full and meaningful notes will be taken. These will normally be issued within three working days of the completed review. Any difference stated in relation to content of the notes will be kept on file
- although it is not expected to be common practice you may request a PMA Specialist attend if agreed by the chair, or if the chair requires their attendance. You may like to seek advice from a PMA Specialist before a review.

Procedure at the review:

- the chair will open the review by introducing those present and explaining the reasons why the review has been arranged. You will be given the opportunity to respond.
- the chair may ask questions to ensure that they have a full understanding of the issues and the PMA Specialist may ask questions to assist with clarity.
- once all the information has been heard, the review will then be adjourned for a short time whilst the chair decides what action is appropriate. The chair may decide to reconvene the review at a later date (normally within seven calendar days) if they need to consider any points in more detail. If the advice of Occupational Health has not been sought earlier in the process, the chair may contact them to establish whether the absences have been caused by an underlying medical condition.
- you will be informed in writing as to what action, if any, is being taken and the reasons for the action.

### **Action to be taken where appropriate**

Having considered the circumstances of your absences the chair will consider whether to take action, the reason for taking such action and will respond to any points you may raise.

It would normally be appropriate to issue a warning if the standard of attendance as outlined in section 5.3 is not met.

#### **5.3.3 Written warning**

If a written warning is considered appropriate, you will be informed that your current record of attendance has not met the required level.

If another attendance review is triggered, within 52 weeks of receiving this written warning, a further review will be arranged at which a final written warning may be issued.

The chair is required to confirm their decision and the reasons for it in writing. Wherever possible this should be done at the end of the review following the necessary adjournment. If it is not possible to confirm the decision in writing on the day, then it should be done as soon as possible. You will have seven calendar days to appeal from the date of the letter. In cases where the letter is posted and there is a delay in receipt of the letter, the appeal period may be reasonably extended by mutual agreement.

#### **5.3.4 Stage 3 - formal action**

If during the 52 weeks following the issue of a written warning a further attendance review is triggered you will be invited in writing, to a Stage 3 formal review.

The arrangements for the review will be the same as for Stage 2 except that the reason will be “continued unsatisfactory attendance following the issue of a written warning on (date)”.

At the review, the procedure will be the same as stated in section 5.3.2 above.

You may request the attendance of a PMA Specialist if agreed by the chair, or if the chair requires their attendance. You may like to seek advice from a PMA Specialist before the review.

A note taker will attend and will take notes in the meeting to capture key points. These will normally be issued within three working days on the conclusion of the review. Any difference in relation to content of the notes will be kept on file.

### **Action to be taken where appropriate**

It would normally be appropriate to issue a final written warning at this stage if the standard is not met. When deciding on taking action, having considered all the factors involved, the chair will confirm their reason for taking such action and where appropriate responding to the any points raised.

## **Final written warning**

If a final written warning is considered to be appropriate it will be valid for 104 weeks.

If during the first 52 weeks of the final warning there are items of further unsatisfactory sickness as per section 5.3, you will be referred to Stage 4 of the procedure.

If however, there are further items of unsatisfactory sickness between weeks 53 and 104 weeks of the warning you will be referred to Stage 3.

The chair is required to confirm their decision and the reasons for the decision in writing. Wherever possible this should be done at the end of the meeting following the adjournment. If it is not possible to confirm the decision in writing on the day, then the chair should do this as soon as possible. You will have seven calendar days to appeal from the date of the letter. In cases where the letter is posted and there is a delay in receipt of the letter, the appeal period may be reasonably extended by mutual agreement.

### **5.3.5 Stage 4 - formal action**

If during the first 52 weeks of the final written warning, a further formal review is triggered then you will be invited in writing to a Stage 4 formal review.

If by this stage you have not already been referred to Occupational Health, then Occupational Health should be contacted by your manager.

The reason for the further review must be stated in the letter to you - "continued unsatisfactory attendance following the issue of a final written warning on (date)" and it must be stated that dismissal will now be considered.

A PMA Specialist will attend the review and a note taker will capture the key points of the meeting. These will normally be issued within three working days. Any difference in relation to content of the notes will be kept on file.

#### **Action to be taken**

If the required level of attendance has not been met it is likely you will be dismissed at this stage. When deciding on taking this action, having considered all the factors involved, the chair will confirm their reason for taking such action and where appropriate respond to the points raised.

#### **Dismissal**

If you have failed to meet the level of attendance required as per section 5.3 and been absent within the first 52 weeks of receiving the final written warning then you will likely be dismissed.

Dismissal will normally be with notice or with pay in lieu of notice (which will be subject to the appropriate tax rules at that point in time).

The chair will confirm their decision to you in writing with the reasons for the decision. Wherever possible this should be done at the end of the review following any adjournment. If it is not possible to confirm the decision in writing on the day,

then the chair should do this as soon as possible. You will have seven calendar days to appeal from the date of the letter. In cases where the letter is posted and there is a delay in receipt of the letter, the appeal period may be reasonably extended by mutual agreement.

### **5.3.6 Unsatisfactory sickness absence – appeal**

If you wish to appeal against the outcome of any formal stage of the procedure you should do so as specified in the letter confirming the decision. One appeal will be allowed at each formal stage of this procedure.

Appeals must be submitted in writing to the person specified in the letter within seven calendar days of receiving the letter. The appeal should clearly state the basis on which the appeal is made.

The arrangements for the appeal should be confirmed as soon as possible and where possible within seven calendar days of the appeal being received. You will be provided with seven days notice of the appeal date and may be accompanied by a trade union representative or workplace colleague.

The individual chairing the appeal will, wherever possible, be a manager senior in authority to the manager who chaired the dismissal review or one who has the authority to, where applicable, override the original decision.

#### **Conduct of the appeal**

At the appeal, the chair will listen to the grounds of appeal, any comments your companion wishes to make and review the formal action taken. The appeal manager may ask questions to clarify matters.

Having heard the appeal, the chair will adjourn to consider their decision. The chair may decide to reconvene at a later date if they need to consider any points in more detail - normally reconvened within seven calendar days. If Occupational Health have not been contacted earlier in the process the chair may contact them to establish whether the absences have been caused by an underlying medical condition.

Depending on the stage that is being appealed, a PMA Specialist may attend. Full and meaningful notes will be taken and these will normally be issued within three working days. Any difference in relation to content of the notes will be kept on file. Depending on the stage being appealed a note taker may be present.

#### **Outcome of the appeal**

The appeal manager can:

- uphold the original decision
- allow the appeal and decide on an appropriate course of action.

Should the appeal manager consider that further investigation is required or believe that Occupational Health should be contacted before a decision can be made, then they must inform you, including timescales which would normally not be longer than seven calendar days. The session would then be reconvened to advise of any additional information obtained and deliver the decision.

The appeal manager will confirm the decision in writing on the day or as soon as possible thereafter with reasons for the decision.

The decision made by the appeal manager is final and ends this procedure.

In circumstances where a dismissal is overturned on appeal and alternative action taken, this will normally be valid from the date of the stage 4 formal review.

## **5.4 Long term sickness absence and recurring short term absences due to disability and/or an underlying medical condition**

### **5.4.1 Recurring short term absences due to disability and/or an underlying medical condition**

If you have a disability and/or underlying medical condition leading to absences which results in an unsatisfactory level of attendance according to the standards set out at section 5.3 above, the following process should be followed.

#### **First review meeting**

On the first occasion that you have an unsatisfactory level of attendance, your line manager should arrange to meet with you.

The purpose of the meeting is to discuss the relevant absences and consider any support that may be available to assist with the aim of improving attendance.

Your line manager should advise how any further absences relating to your disability/underlying medical condition will be managed and provide a copy of the Attendance at work policy and procedure. The advice should then be confirmed in writing.

Your line manager should acknowledge the likelihood that due to your disability/underlying medical condition, further absences are likely to occur. Your line manager will provide as much support as possible. Such absences will need to be monitored and managed appropriately.

#### **Actions after the first review meeting**

Following the first review meeting, your line manager will normally need to seek the advice of Occupational Health. This may result in an appointment being arranged with Occupational Health.

You will be asked to complete a medical consent form which will allow Occupational Health to obtain the relevant information from your GP and/or Specialist. Details regarding the consent form can be found on Working at TfL. In addition, your line manager should discuss the referral with you and seek your consent to Occupational Health providing your line manager with advice relating to your fitness for work and relevant advice relating to your ability to undertake your contractual role or any alternative role(s). If you refuse to sign the medical consent form and/or refuse permission for Occupational Health to provide relevant advice as referred to above, this will be recorded and a decision on how to proceed will be made on the information available.

## Further review meetings

Further instances of unsatisfactory attendance will require further review meetings.

In the event of three instances of unsatisfactory attendance (as set out in section 5.3) a review meeting should be held to consider amongst other things the following matters:

- whether there is any particular/underlying reason for the latest unsatisfactory attendance level
- whether there has been any improvement or decline in the absence levels over the period of monitoring
- whether there has been any medical treatment or medical intervention that is likely to result in an improved level of attendance
- the impact of the absences on the business, with particular regard to business delivery
- the impact of the absence on your colleagues, including additional workload
- the ability of the business to continue to sustain the current levels of absence.

Your line manager will adjourn the meeting to consider next steps, which could include:

- whether there should be no further action at this time but the absence levels will continue to be monitored and any further unsatisfactory levels of attendance may result in a different outcome
- whether referral to the redeployment team in HR Services to help you try to secure an alternative role would be the next step they would work with you to match your skills to potential vacancies. If a suitable vacancy is identified, you would be redeployed accordingly taking on the terms and conditions (including salary) of the alternative position (depending upon the circumstances, you may need to go through a competitive selection process for the suitable vacancy)
- ensuring up to date information/advice from OH is available which will impact on the consideration of whether the level of absence is no longer sustainable.

Further review meetings should be held at regular intervals. Each case must be considered on its merits and in the light of the requirements of the business.

Your line manager must continue to obtain advice and guidance from Occupational Health and a PMA Specialist. This advice needs to include your ability to do an alternative job on a permanent basis. Where it is clear you will no longer be able to do your current job due to an unsatisfactory level of attendance due to your underlying medical condition and/or disability and the levels of absence are becoming unsustainable, then terminating your employment may be a possibility.

You have the right to be accompanied at each of the review meetings by either a trades union representative or a workplace colleague.

A PMA Specialist may also be present at these meetings although it is unlikely they will be required to attend the initial meeting unless requested to do so.



Should you wish to appeal a letter should be submitted within seven calendar days and the appeal process as outlined in section 5.4.5 will be followed.

## 5.4.2 Long term sickness absence

### First review meeting

Where you expect to be away from work through continuous sickness or injury, you will be given reasonable notice by your line manager of a meeting to discuss your sickness absence.

The time and date of the meeting will be confirmed in writing. Depending on the reason for the sickness absence it may be appropriate to carry out the meeting away from the workplace. If the meeting is to be held at your home, then this should only be done with your consent and your line manager will take a colleague. In this situation you could be accompanied by a work place colleague or a trade union representative. It may be appropriate for your line manager to be accompanied by someone who is of the same sex as yourself. As an alternative, if you are unable to travel, a telephone review meeting could be agreed.

Your line manager should advise a PMA Specialist that such a review meeting is to take place.

The meeting is an opportunity for both parties to discuss any interventions and support which may assist your return to work.

A copy of this policy is available to you on Working at TfL, the TfL Management System.

It should be agreed with you how you will receive any updates about TfL business messages. This can include publications such as Weekly Round Up, Team Talk and Upfront. In the case of organisational change, your line manager is responsible for ensuring that you receive the same information as your colleagues.

Following the meeting, your line manager will write to you noting what was discussed and any agreed actions. Your line manager should consider any further interventions and/or reasonable adjustments (where appropriate), such as reduced hours, to assist return to work. Before implementing any reasonable adjustments it may be necessary for your line manager to contact Occupational Health.

### Actions after the first review meeting

Following the first review meeting, if you are unable to give a date you will return to work, your line manager will normally need to seek the advice of Occupational Health. This may result in an appointment being arranged with Occupational Health.

You will be asked to complete a medical consent form which will allow Occupational Health to obtain the relevant information from your GP and/or Specialist. More details regarding the consent form can be found on Working at TfL. In addition, your line manager should discuss the referral with you and seek consent for Occupational Health to provide your line manager with advice relating to your fitness for work and relevant advice relating to your ability to undertake your contractual role or any alternative role(s). Should you refuse to sign the medical consent form and/or refuse permission for Occupational Health to provide relevant advice as referred to above,

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this will be recorded and a decision on how to proceed will be made on the information that is available.

If after this meeting a return to work date is not yet known, a regular review process must be initiated. The frequency of these reviews will depend on the nature of the illness and advice from a PMA Specialist and/or Occupational Health may be considered.

### **Second review meeting**

The second review meeting should be arranged after the appointment with Occupational Health and normally 28 days after the first review meeting. A PMA Specialist may be requested to attend. You may like to be accompanied by a companion who is either a workplace colleague or a trade union representative.

If appropriate, a written return to work plan should be discussed. The plan should then be followed by both parties. This will take into account any reports from your GP, Specialist and/or Occupational Health. If this information is not yet available it should not prevent the plan being drafted and followed except for any actions where further medical advice is required before proceeding.

In creating the written return to work plan, the following options will be considered:

- interventions and/or reasonable adjustments to assist in getting back to work and maintaining attendance. Reasonable adjustments may also be considered as part of a phased return to work taking advice from Occupational Health
- ability to do an alternative job, where available, on a temporary basis for up to 28 days, to assist in returning to work. Permanent alternative employment would only be considered at the second meeting if it was already clear that to your current job is not possible
- whether it is expected that you should be able to return to work with or without some reasonable adjustments within the foreseeable future.

### **Further review meetings**

Further review meetings should be held at regular intervals. Each case must be considered on its merits, in light of the requirements of the business.

At these meetings, the considerations listed in the paragraph above will be reviewed. Your line manager must obtain advice and guidance from Occupational Health on your ability to do an alternative job on a permanent basis, where it is clear you will no longer be able to do your current job due to medical incapability.

### **Return to work meetings following long term sickness absence**

In line with the links on Your TfL, your manager must hold your return to work meeting following your return from long term sickness absence.

#### **5.4.3 Suitable alternative employment**

Following confirmation from Occupational Health that you are no longer able to do your job for medical reasons and are unlikely to become able to do so in the

foreseeable future, further advice should be sought regarding suitable alternative roles.

If you are able to carry out suitable alternative employment and your line manager is unable to identify a suitable alternative post within their team, a meeting will be arranged to discuss the continued employment with TfL due to incapacity to undertake your contractual role.

If you wish to seek suitable alternative employment, you should be referred to the redeployment team in HR Services. They will work with you to match your skills to potential vacancies. If a suitable vacancy is identified, you will be redeployed accordingly taking on the terms and conditions (including salary) of the alternative position (depending upon the circumstances, you may need to go through a competitive selection process for the suitable vacancy).

A PMA Specialist should advise your line manager in circumstances involving the Equality Act 2010.

You may remain in redeployment for a period of up to 13 weeks which will include any period of sickness absence. During the 13 weeks, you must keep in contact with your line manager and notify them of any change in condition which may require a further review with Occupational Health. In any event, your line manager will arrange a review meeting during the 13 week period.

During your time in redeployment you may take up secondments or another role on a temporary basis for a specific period after which it will be reviewed. During the secondment or temporary role, day to day management falls to the new manager. You will also be placed on the new cost code.

Contact with the redeployment unit should continue throughout this period, ensuring ongoing assistance in finding a permanent job. Please remain in contact with your line manager.

At the end of the secondment or temporary role you will return to redeployment to complete the 13 week period (if appropriate) or return to your substantive post if fit to carry out those duties.

#### **5.4.4 Dismissal on the grounds of medical incapacity**

Dismissal on the grounds of medical incapacity would follow advice and guidance from Occupational Health and would be appropriate where:

- adjustments cannot be made (because they are not deemed reasonable)
- the reasonable adjustments that can be made are insufficient to enable return to work or do not result in satisfactory improvement in attendance
- permanent suitable alternative employment cannot be found
- unreasonable refusal of reasonable adjustments or suitable alternative employment.

Employment may be terminated before entitlement to contractual sick pay has been exhausted.

At the end of the 13 week period or on return from secondment, whichever is the later, and if no suitable alternative job has been found, you will be invited to a further review meeting with your line manager.

The invitation to the meeting will be in writing and state the reason why dismissal is to be considered and will advise of the right to be accompanied by a workplace colleague or a trade union representative.

If you cannot attend the meeting due to circumstances outside your control and unforeseeable at the time the meeting was arranged, or your companion cannot attend on the proposed date, please suggest an alternative time and date, so long as it is reasonable and it is not more than seven calendar days after the original date. Your line manager will seek to take all reasonable steps to arrange a suitable date within seven calendar days of the original. If the chosen companion is not available then an alternative companion should be sought to ensure the matter is resolved in a timely fashion. The seven calendar days may be extended by mutual agreement. Further advice should be sought from the PMA Specialist.

The meeting will be attended by your line manager, a PMA Specialist, yourself and your companion (if requested).

The purpose of the meeting is:

- to review the meetings that have taken place and matters discussed
- where you remain on long term sickness absence, to consider whether there have been any changes since the last review meeting, either as regards possible return to work or opportunities for return or redeployment
- to consider any further matters that you may wish to raise
- to consider whether there is a reasonable likelihood of returning to work or achieving the desired level of attendance in a reasonable time
- to consider the possible termination of employment.

Your line manager will adjourn the meeting to consider what has been said at the meeting.

Your line manager will advise you of their decision. In the event that termination on medical incapacity is considered the appropriate outcome, they will advise that they are terminating your employment with TfL on the grounds of medical incapacity as a result of the levels of absence.

Your line manager will confirm their decision and reasoning in writing. If it is not possible to confirm the decision in writing on the day, then it should be done as soon as possible.

## 5.4.5 Appeal

Appeals should be submitted within seven calendar days of the date of the dismissal letter. In cases where the letter is posted and there is a delay in receipt of the letter, the appeal period may be extended by mutual agreement.

Should you wish to appeal please do so as specified in the letter confirming the decision.

The appeal should be arranged where possible within seven calendar days of the appeal being received. The same right to be accompanied applies.

The individual chairing the appeal will, wherever possible, be a manager senior in authority to the manager who chaired the dismissal review or one who has the authority to, where applicable, override the original decision.

### Conduct of the appeal

At the appeal, the manager will listen to the grounds of appeal, any comments the companion wishes to make and review the formal action taken.

The appeal manager may ask questions to clarify matters.

Having heard the appeal, the manager will adjourn to consider their decision. The manager may decide to reconvene at a later date if they need to consider any points in more detail. This will normally be reconvened within seven calendar days. If Occupational Health have not been contacted earlier in the process the manager may contact them to establish whether the absences have been caused by an underlying medical condition.

A PMA Specialist may attend the appeal depending on the circumstances of the case.

Notes will be taken capturing the key points of the meeting. These will normally be issued within three working days. Any difference in relation to content of the notes will be kept on file. A note taker may be present depending on the circumstances of the case.

### Outcome of the appeal

The appeal manager can uphold the decision made at the review meeting or reject the appeal.

Should the appeal manager consider that further investigation is required or believe that Occupational Health should be contacted before a decision can be made, then they must inform you, including timescales, normally not longer than seven calendar days. The appeal would then be re-convened to advise of any additional information obtained and deliver the decision unless you confirm you will not attend and require the decision in writing only.

The appeal manager, on the day or as soon as possible thereafter, will confirm the decision in writing and reason.

The decision made by the appeal manager is final and ends this procedure.

In circumstances where a dismissal is overturned on appeal and alternative action taken, this will normally be valid from the date of the dismissal review meeting.

#### **5.4.6 Annual leave**

Where you have experienced long term absence from work you will be encouraged to take annual leave on return to work, subject always to the operating needs of the business. If you have been on long term absence for the whole leave year or a period of sick leave extends into the next annual leave year, or if there is not enough time left in the current annual leave year to make it practicable to take your remaining holiday entitlement, you will be able to carry over any accrued but untaken annual leave for use during the following leave year.

Any annual leave not taken within 18 months of the end of the annual leave year in which it accrues (whether or not you have returned to work) will be lost.

#### **5.4.7 Applications for a pension in cases of termination on grounds of ill-health**

If you are dismissed on grounds of medical incapacity you are entitled to apply for and possibly receive an ill-health pension benefit. It is the decision of the Pension Fund on whether an ill-health pension benefit will be awarded, not the employer (TfL). Please contact the Pension Fund direct to obtain the application required to request consideration.

The TfL Pension Fund has dedicated resources to provide advice for TfL Pension Fund, Local Government Pension Scheme and Principal Civil Service Pension Scheme members. They can advise on whether any specific steps, relating to the application of an ill-health pension, should be taken prior to the dismissal taking place.

The TfL Pension Fund can be contacted on 020 7918 3733 and more information can be found on the respective pension at:

<http://www.tfl.gov.uk/pensionfund>

<http://www.lgps.org.uk/>

<http://www.civilservice-pensions.gov.uk/>

We will assist with the application of an ill-health pension as appropriate and deemed necessary by the Pension Fund, but the reason to dismiss will, following advice and guidance from Occupational Health, be based on ability to complete substantive roles or a suitable alternative job on a permanent basis; not on whether the Pension Fund will award an ill-health pension.

#### **5.5 Non-sickness related absence**

Please report any absence from work including absence due to an unexpected domestic emergency in accordance with section 5.1.1 as soon as possible. In cases of a domestic emergency then family or special leave may be granted as outlined in the Work life balance policy, which is found on Working at TfL.



### 5.5.1 **Unauthorised absence from work**

Disciplinary action may be taken in accordance with the Discipline at work policy and procedure if:

- you fail to attend work for a whole working day and fail to make contact
- you fail to complete a working day or shift without authority
- for the circumstances reported in 5.1.9 under disciplinary action.

### 5.5.2 **Continued unauthorised absence process**

Where the absence continues beyond seven calendar days, and you have failed to make contact and no information is received as to your whereabouts then pay will be stopped from the first day of absence and the continued unauthorised absence process will commence.

Your manager should advise a PMA Specialist before proceeding. The process is comprehensive and allows every opportunity for you to get in touch.

Appropriate disciplinary action in accordance with the Discipline at work policy and procedure may be taken when you make contact and/or return to work after the continued unauthorised absence process has commenced.

## 5.6 **Time keeping – lateness**

It is important to note that there are different local arrangements and operational needs in TfL. In some areas, flexible start and finish times may be agreed. In other areas, attendance at work at a specific time is critical. However, it is important that you attend work punctually and at agreed start times.

Lateness will be considered separately to unauthorised absence and sickness absence. Should you be more than two hours late then this will be treated as failure to complete a working day or shift without authority, and will be dealt with as described under section 5.1.9.

Where a pattern of lateness has been identified or you have been late on:

- three occasions in any 26 weeks or
- five occasions in any 52 weeks.

Disciplinary action may be taken under the Discipline at work policy and procedure.

It may be appropriate to disregard lateness on days where industrial action occurs or when there are unplanned transport operating difficulties that affect the chosen route to work. In other cases, please ensure that you allow suitable time for travelling to work.



## 6 Support and advice

Support and advice can be obtained through speaking to your line manager, a PMA Specialist or contacting HR Services (auto 1729).

## 7 Retention and disclosure of records

Any reports and interview notes will be disclosed as outlined within the procedure above. To protect the legal rights of all individuals involved in the investigation and fulfil TfL's duty of care as an employer, and comply with the Data Protection Act, TfL may need to remove information that may lead to the identification of employees and/or members of the public.

Any letters, reports and interview notes will be retained for seven years from the date the matter was formally closed. Only live warnings will be disclosed or considered when deciding upon any appropriate sanction.

## 8 Person accountable for this document

Name	Job title
Martin Boots	Head of Employee Relations

## 9 References

Document no.	Title or URL
P090	<a href="#">Discipline at work policy and procedure</a>
P103	<a href="#">Work life balance policy</a>
P078	<a href="#">TfL code of conduct</a>
P092	<a href="#">Equality and inclusion policy</a>
G2111	<a href="#">Guidelines for employees undergoing fertility treatment</a>
G1459	<a href="#">Guidelines relating to women going through the menopause</a>
Working at TfL	<a href="#">Home page</a>
Working at TfL	<a href="#">Managing your team's health</a>
Working at TfL	<a href="#">My health</a>
Working at TfL	<a href="#">Equality and inclusion</a>

## 10 Document history

Issue no.	Date	Changes	Author
A1	March 2008	New document	
A2	October 2010	Updated for Equality Act 2010	
A3	March 2017	Policy reviewed and various updates included – change as per no. 05495	Jo Page