

## **London Underground Limited Attendance at Work Procedure**

**This procedure supports the Employment Policy and Attendance Standard. The Attendance at Work Procedure has due regard to the ACAS Code of Practice and recent changes in employment legislation – in particular, the Employment Relations Act (1999) and the Equality Act. This procedure must be used in conjunction with the Attendance at Work Support Pack.**

### **1 Introduction**

- This procedure is designed to deal specifically with unauthorised non-attendance to work.
- Employees are expected to attend work regularly and on time in order to maintain high standards of service and safety.
- Non-attendance due to sickness may be unavoidable and the Company does not require, nor does it wish, employees who are unfit for work to attend for duty.
- The Company has an obligation to consider the effects that non-attendance has on the services it provides to its customers and on other staff and therefore the Company expects employees to take measures to keep non-attendance from work to a minimum.
- Employees with unsatisfactory levels of attendance will be treated in a fair, consistent and equitable way. They will be given an opportunity to improve their attendance but continued failure to meet the standards required may result in disciplinary action or termination of service on medical grounds.
- 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.

### **2 Reporting and ongoing non-attendance**

- 2.1 Before the normal commencement of the first shift/ working day, the employee is expected to report their non-attendance, even if he/ she was booked off by his/ her manager/ the previous shift/ working day. This will be subject to any mitigating circumstances relating to the nature of the non-attendance.
- 2.2 The manager records the details of the non-attendance. Contact arrangements should be explained and timescales mutually agreed between the employee and their manager.
- 2.3 Should an employee be expected to be off work through sickness for 28 calendar days or more, the employee will be given reasonable notice by their manager of any meeting to discuss their continued non attendance. The

manager/ will inform the employee that a trades union representative/ fellow worker can accompany the employee at this meeting.

### **3. Returning to work**

- 3.1 The employee gives notice of his/ her intention to resume work to their manager.
- 3.2 A Return to Work Interview will be used to ascertain details of any medication taken, or being taken, and the employee's general fitness to carry out their normal duties. Where appropriate, advice and guidance must be sought from Occupational Health (OH). This must be done before any safety critical work is undertaken. Reasonable adjustments will be considered. The manager will discuss other options with the employee where these are not appropriate.

### **4 Attendance review**

- 4.1 Where it has been found that standards of satisfactory attendance have not been met, or there is a pattern of non-attendance that is causing concern, the manager/ reviews the employee's attendance.
- 4.2 Standards of satisfactory attendance have not been met when:
  - 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 shifts/ working days.

An item of non-attendance is defined as:

- A shift/ working day or more than one consecutive shift/ working day of sickness absence (including self and medical certification);
- A shift/ working day or more than one consecutive shift/ working day of unauthorised absence;
- Failure to work a complete shift/ working day without authority (counted as one shift/ working day for this purpose).

A pattern of non-attendance may have developed over a period of time that is a cause for concern, but has not resulted in a breach of the above attendance standards. A manager may decide that action is necessary to address this non-attendance.

### **5 Manager decides the course of action to be taken**

The manager takes one of the following approaches, seeking advice from OH where necessary:

#### **5.1 Conduct**

This relates to items of non-attendance not included under 'Fitness for work', (5.2). Taking into account specific individual circumstances and overall attendance record, the manager may record that no disciplinary action will be

taken at this stage. Otherwise, non-attendance of this nature will be dealt with under the Discipline at Work Procedure.

The following types of non-attendance to work will not normally count towards disciplinary action:

- Customer incidents/ accidents resulting in trauma;
- Accidents recorded at work;
- Assault on duty;
- Assault off duty where the individual is wearing the Company's uniform and the incident occurs whilst travelling to or from work;
- Urgent medical treatment (including minor invasive surgery) requiring a visit to hospital/ medical practitioner/ dentist, waiting for medical treatment that (requiring a visit to hospital) precludes an employee attending work in any capacity, and subsequent convalescence.

However, the above situations may be included in disciplinary action where there is insufficient evidence to support discounting the item. If the employee considers the decision to be unfair and the item forms part of a sanction awarded at a disciplinary interview, the employee can raise this at an appeal interview.

Under no circumstances would absences directly related to pregnancy count towards disciplinary action.

## 5.2 **Fitness for work**

This relates to a need for managed rehabilitation, or where there is an underlying medical condition that has a significant effect on an employee's attendance and/ or performance. This could cause lengthy absences or recurring short-term absences. Non-attendance of this nature will be dealt with as follows:

### **The manager will:**

- Maintain contact with the employee as specified in item 2 of this procedure;
- Contact OH for appropriate advice and guidance, including the possibility of medical interventions to facilitate an earlier return to work;
- Arrange a case conference as early as possible (refer to 5.2.1) to:
  - Step One - actively consider making reasonable adjustments (if required) – refer to 5.2.2;
  - Step Two - actively pursue suitable alternative employment – refer to 5.2.3;
  - Step Three - as a last resort, having fully considered the options in 5.2.2 and 5.2.3, consider termination of employment on medical grounds – refer to 5.2.4.

### **5.2.1 Case Conference**

A case conference consists of the employee concerned, the employee's representative (if the employee chooses to be accompanied at the case conference by a Trades Union Representative/ fellow worker), the manager, and a representative from Human Resources. The case conference will

produce an agreed written action plan that must be abided to by all parties. The employee's case will continue to be monitored by the case conference until it is mutually agreed that this is no longer necessary.

### **5.2.2 Step One - reasonable adjustments**

If, in returning to work temporary or permanent adjustments are required to help the employee improve and maintain acceptable standards of attendance at work, the case conference must consider this, taking into account the needs of the individual. Where no adjustments can be made, or adjustments that are made do not satisfactorily improve the employee's attendance, the case conference should consider the options outlined in 5.2.3 and 5.2.4.

For those employees who have a disability that is within the scope of the Equality Act, the Company's processes developed to ensure compliance with the provisions of the Equality Act must be followed.

### **5.2.3 Step Two - suitable alternative employment**

If the employee wishes to remain in employment, the case conference should seek advice and guidance from OH regarding the employee's ability to do an alternative job. In these circumstances an employee's service will not be terminated until a minimum of 39 weeks have elapsed from the time he/ she first became unable to carry out his/ her job for medical reasons.

Managers should proceed in accordance with item 6.2.8 of the Main Agreement for Operational Staff and Operational Managers (October 22<sup>nd</sup> 1992) and the Company's procedures covering medical redeployment and protection of earnings.

An employee's service may be terminated before 39 weeks have elapsed where:-

- An employee does not wish to be considered for redeployment, or
- It is clear no suitable jobs are likely to be identified, or
- An employee refuses a reasonable offer of suitable alternative employment.

### **5.2.4 Step Three - termination of employment on medical grounds**

As a last resort, where all other options have been fully exhausted, the case conference will discuss arrangements for termination of employment on medical grounds and advise the employee of his/ her right of appeal.

## **6 Privacy and data protection**

TfL will comply with privacy and data protection legislation relating to the processing of your personal data.

TfL will process your data primarily to enable us to perform our contract with you (including to perform this policy), and to enable TfL to comply with our legal obligations.

### **Disclosure of records**

Any reports and interview notes will be disclosed as outlined within the policy 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 data protection and privacy legislation, TfL may need to remove information that may lead to the identification of employees and/or members of the public.

### **Retention periods**

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

For further details, please refer to the [TfL website](#).

**With regard to 5.2.2, 5.2.3 and 5.2.4, the employee has the right to be accompanied by a Trades Union representative/ fellow worker at any meetings with their manager.**