

London Underground Limited Discipline at Work Procedure

This procedure supports the Employment Policy and Discipline Standard. The Discipline 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). This procedure must be used in conjunction with the Discipline at Work Support Pack.

1. Introduction

The Company's Discipline at Work Procedure is the formal means for dealing with breaches of standards, rules and procedures. This procedure applies to all staff employed by the Company. For new entrant employees, please refer to the Discipline at Work Support Pack.

In many cases, the right word at the right time and in the right way may be all that is needed and is often a more satisfactory way to help and encourage staff to achieve and maintain standards of conduct/ behaviour and performance than immediate disciplinary action. With this in mind, minor cases of misconduct or poor performance will, in the first instance, be best dealt with by informal advice, coaching, training or counselling.

Employees and their managers should not view the Discipline at Work Procedure primarily either as a means of awarding sanctions or as potentially leading to dismissal. It is an aid to good people management. This procedure is designed to be:

- An effective and progressive way of dealing with any shortcomings in behaviour/ conduct or poor performance where normal management processes have not been successful in achieving the improvement required or where a first offence is sufficiently serious;
- Clear and simple to operate;
- Fair, impartial, consistent and equitably applied to all.

Entry into the disciplinary procedure may be at any point, dependent upon the seriousness of the employee's alleged misconduct/ poor performance.

The following outlines the formal actions the Company will take if standards, rules or procedures are breached.

2. Investigation – by the local/ immediate manager^{*1}

A full investigation and collation of all the evidence is paramount. When the manager has completed the investigation, he/ she will review the evidence obtained and decide whether to drop the matter, deal with the matter informally, or arrange for the matter to be dealt with formally under the disciplinary procedure.

^{*1} For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.

^{*2} For Workplace Harassment cases, the appeal manager will be an appropriate Accredited Manager for Harassment.

^{*3} Where charges relate to breaches of the Workplace Harassment Policy, the two managers will be Accredited Managers for Harassment.

Separately, the manager will inform the employee of this decision. The investigation is confined solely to ascertaining the evidence and does not normally afford the right of representation.

Where there appears to be very serious misconduct or risk to property or other people, a brief period of suspension from work with pay will be considered by the manager while the case is being investigated. The manager will inform the employee in writing why they are being suspended from work with pay and outline the next steps. Employees who are suspended from work with pay may be accompanied by a Trades Union representative/ fellow worker during all investigatory interviews with the employee.

Gross Misconduct

Where there is evidence of Gross Misconduct, the case must be referred to a Company Disciplinary Interview. 'Gross' is the term used to describe the most serious breaches of standards, rules or procedures that jeopardise the employment contract.

3. Action

3.1 Local Disciplinary Interview – conducted by the local/ immediate manager^{*1}

Oral Warning

For minor breaches of rules/ standards/ procedures, the manager will consider the issuing of an oral warning. An oral warning is valid up to a maximum of 26 weeks from the date of the breach.

Written Warning

If the breach of the rules/ standards/ procedures is more serious, the manager will consider the issuing of a written warning. A written warning is valid for a minimum of 26 weeks and up to a maximum of 52 weeks from the date of the breach.

For both of the above warnings, the following points apply:

- The employee has the right to be accompanied at the interview by a trades union representative/ fellow worker of his/ her choice.
- At the interview, the employee and his/ her representative are given the opportunity to put the employee's case.
- The manager will make clear the improvement required and, if appropriate, the employee will be given a specific time period in which improvement is required.
- A copy of the warning will be placed on the employee's staff file and transferred to the discipline file after its expiry.
- The warning will confirm that the next stage in the procedure is to consider a Final Written Warning.

^{*1} For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.

^{*2} For Workplace Harassment cases, the appeal manager will be an appropriate Accredited Manager for Harassment.

^{*3} Where charges relate to breaches of the Workplace Harassment Policy, the two managers will be Accredited Managers for Harassment.

- An employee has the right to appeal if he/ she chooses. The employee will appeal in writing within seven calendar days of the formal action being taken to the manager at the next level to the manager who awarded the sanction*². An appeal interview will be held within fourteen calendar days of the appeal being requested, or as soon as possible thereafter. The appeal manager will not have been previously involved in the case. The appeal manager will review the formal action taken, but cannot increase any sanction awarded.

3.2 Company Disciplinary Interview – conducted by two managers*³ of at least Manager Grade (MMG0 or higher), who must be at least one grade higher than the employee concerned and not previously involved in the case.

Final Written Warning

In cases of a failure to respond adequately to a previous warning (that is still valid), or a first offence is sufficiently serious but would not justify considering dismissal or other sanction, a Company Disciplinary Interview will be convened to consider the issuing of a Final Written Warning. The interview may also consider other arrangements (such as training and/ or counselling). In addition, attendance on the Coaching for Change Programme is compulsory in workplace harassment cases.

- The employee has the right to be accompanied by a trades union representative/ fellow worker of his/ her choice.
- At the interview, the employee and his/ her representative are given the opportunity to put the employee's case.
- Explain the standards of conduct/ behaviour or performance expected.
- Explain the consequences of failing to meet the improvements required.
- The warning will also confirm that the next stage in the procedure may consider dismissal.
- The warning will be valid for a period of 52 weeks from the date of the breach.
- A copy of the warning will be held on the employee's staff file and transferred to the centrally held discipline file after its expiry.
- The employee has the right to appeal if he/ she chooses. The employee will appeal in writing within seven calendar days of the formal action being taken to the Human Resources/ Employee Relations Manager*². An appeal interview will be held within fourteen calendar days of the appeal being requested, or as soon as possible thereafter. The appeal manager will be a manager senior in authority to the manager who awarded the sanction and will not have been previously involved in the case. The appeal manager will review the formal action taken, but cannot increase the sanction awarded.

Dismissal or other sanction

The Company reserves dismissal for serious offences (e.g. Gross Misconduct), failure to respond to a previous Final Written Warning (that is still valid), or sustained poor performance. The Company will only take the decision to dismiss after reviewing all relevant evidence and considering the case made by the employee and their representative.

*¹ For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.

*² For Workplace Harassment cases, the appeal manager will be an appropriate Accredited Manager for Harassment.

*³ Where charges relate to breaches of the Workplace Harassment Policy, the two managers will be Accredited Managers for Harassment.

Dismissal with notice or payment in lieu of notice will normally be given, but dismissal without notice will be given for the most serious offences e.g. physical violence, theft, fraud or gross negligence.

Other sanctions a Company Disciplinary Interview may consider:

<ul style="list-style-type: none">• Final Written Warning	<ul style="list-style-type: none">• Written Warning
<ul style="list-style-type: none">• Oral Warning	<ul style="list-style-type: none">• Withdrawal of travel benefits – only where there has been a misuse of a travel pass/ ticket
<ul style="list-style-type: none">• Suspended dismissal	<ul style="list-style-type: none">• Suspension without pay (up to a maximum of one working week)
<ul style="list-style-type: none">• Regrading	<ul style="list-style-type: none">• Transfer (co-ordinated by the appropriate recognised staff movements group (if applicable)).

An employee has the right to appeal if he/ she chooses. The employee will appeal in writing within seven calendar days of the formal action being taken to the Human Resources/ Employee Relations Manager^{*2}. An appeal interview will be held within fourteen calendar days of the appeal being requested, or as soon as possible thereafter. The appeal manager will be a manager senior in authority to the manager who awarded the sanction and will not have been previously involved in the case. The appeal manager will review the formal action taken, but cannot increase any sanction awarded .

4. Non-attendance at disciplinary interviews

If an employee fails to attend a disciplinary interview, the interview will be adjourned and the employee will be given another date and time. The employee will be informed that should he/ she fail to attend the re-arranged interview, the interview may be held in their absence.

5. Appeal to Director

In exceptional circumstances following an appeal interview, a full time trades union officer may raise a case with the appropriate Director.

6. Trades Union representatives

No formal disciplinary action will be taken against a recognised trades union representative until the circumstances of the case have been discussed with a full-time trades union officer or their nominee of the trades union concerned.

7. Witnesses

Witnesses are encouraged to attend a disciplinary interview where clarification is necessary regarding evidence the witness has already provided, or in light of further information becoming available. However, the witness is not compelled to attend. Witnesses will not be called if it is sensible that their anonymity is preserved. Character witnesses are not permitted, but statements on an employee's character will be considered.

^{*1} For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.

^{*2} For Workplace Harassment cases, the appeal manager will be an appropriate Accredited Manager for Harassment.

^{*3} Where charges relate to breaches of the Workplace Harassment Policy, the two managers will be Accredited Managers for Harassment.

8. 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](#).

9. Other standards to be aware of

Breaches of the following standards may result in disciplinary action under the Discipline at Work Procedure. However, this is not an exhaustive list:

• Attendance	• Workplace Harassment
• Performance Management	• Alcohol and Drugs
• Business Ethics	• Electronic Mail and the Internet
• Code of Conduct	• Smoke-free Workplace

10. Review of Discipline at Work Procedure

A six-monthly review on the application of the Discipline at Work Procedure will take place between the Company and the Trades Unions.

LUL CORPORATE EMPLOYEE RELATIONS

*1 For Workplace Harassment cases where a formal complaint of harassment has been made, the manager will be an Accredited Manager for Harassment.

*2 For Workplace Harassment cases, the appeal manager will be an appropriate Accredited Manager for Harassment.

*3 Where charges relate to breaches of the Workplace Harassment Policy, the two managers will be Accredited Managers for Harassment.