

## Use of discretion in the management of attendance

*This guidance clarifies the scope that exists for managers to exercise discretion when managing attendance, as set out in the AAW procedure [http://luintranet.tfl/working\\_here/er/policies/3346.html](http://luintranet.tfl/working_here/er/policies/3346.html) and the AAW support pack [http://luintranet.tfl/working\\_here/er/policies/12154.html](http://luintranet.tfl/working_here/er/policies/12154.html) . Both documents are also accessible via the electronic links in the managers handbook.*

Manager discretion can take the form of reducing the length of the warning, or not proceeding to LDI. It can be exercised when reviewing attendance, or at the resultant LDI, or on appeal against the LDI decision. In all cases, if discretion is exercised, the reason for exercising discretion must be recorded and confirmed in writing. It is essential that such discretion is applied consistently and fairly, and it is recommended that advice is sought from the PMA to ensure consistency in terms of the justification and extent of discretion, although the final decision must be for the manager leading the particular meeting.

If, following an attendance review, you decide 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;
- Explain why you have decided not to proceed to LDI on this occasion (for example, disciplinary action would not take place if the employee had no absences from work in the previous 52 weeks).

If the matter proceeds to an LDI, and it is decided to issue a warning, LU's expectation is that a full term warning would generally be applied unless there is a clear and justifiable reason for exercising discretion. Where there is such justification, discretion can be exercised through issuing a shorter term warning than the maximum due. To assist transparency, the reasoning for applying discretion should be included in the resultant warning letter. Such reasons could include:

- The employee's good attendance record prior to the current period(s) of absence;
- Action taken by the employee to minimise their non attendance, i.e., where it is apparent an individual has returned to duty sooner than might otherwise have been anticipated, for example, absence has been restricted to 2 single days unavoidable absence;
- Identified actions the employee has taken to prevent recurrence of non-attendance;
- The employee's genuine willingness to improve their attendance (it would not however be justifiable to exercise discretion if further instance of non-attendance has occurred that is not taken into account in the LDI process).

Reducing a warning length by 1 or 2 weeks is unlikely to have any positive effect in encouraging good attendance. However a reduction by say 6 weeks where it is apparent an individual is not a habitual poor-attender provides encouragement to good attendance. A reduction in excess of this, say to 10 weeks, would need to reflect more exceptional circumstances, for example, if it is clear the individual experienced 2 unavoidable periods of 1 day absence with no previous evidence of non-attendance issues. If a reduction in excess of that is being considered, it would suggest the decision to take formal disciplinary action is questionable.

Given the impact of exercising discretion is on the length of warning, it is important that reviews of attendance, and formal LDI/CDI processes that result are conducted as soon as reasonably practicable, and ideally no longer than within 3 weeks of return from the triggering item.

*Concerns with regard to the above should be raised with the relevant PMA in the first instance.*