

Written Notice

LUL Ref: LUL/WN/00479 rev2

Suppliers Ref No:-

UNDERGROUND

1.	Written Notice Completed By	
	Responsible Manager:	Catherine Behan
	Directorate:	SQE
	Date issued:	10/01/2006
2.	Details of Standard Requiring Clarification	
	Title:	Refusal to work on the grounds of health and safety
	Reference No.:	5-547 (formerly 2-05104-402)
	Version.:	3
	Clause/Paragraph No.:	3.4.1/3.4.2
3.	Details of Definitive LUL Interpretation of Requirements	
	Title:	Right of appeal
	<p>The standard currently says that the grounds for the appeal shall be reviewed by the manager in conjunction with the relevant SQEM (clause 3.4.2). This clause is meant to represent an escalation therefore the manager referred to here shall be at a higher level in the management chain than the manager dealing with the initial refusal to work.</p>	
4.	LUL Competent Authority Sign off	
	David Burton	

Standard



Category: 5
Number: 5-547 (formerly 2-05104-402)
Issue no: 3
Issue date: April 2008

London Underground

Refusal to work on the grounds of health and safety

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A Standard is defined as:

A mandatory document which sets out minimum requirements expressed as outputs; or a mandatory document which defines an interaction or commonality which meets a defined LU requirement.

Authorised by:	<u>Mike Strzelecki</u> Director of Safety	Date:	<u>April 2008</u>
Approved by:	<u>David Burton</u> General Manager, SQE Systems & Assurance	Date:	<u>April 2008</u>
Standard owner:	<u>Mark Moore</u> SQE Risk and Systems Manager	Date:	<u>April 2008</u>



1 Purpose

- 1.1 The purpose of this Standard is to define LU's arrangements for instances where employees have refused to work normally on the grounds of health and safety, to ensure that risks remain at, or are reduced to, a level which is as low as reasonably practicable.

2 Scope

- 2.1 This Standard applies to all employees. All employees may refuse to work if they have legitimate grounds for believing that to start / continue work would place themselves or others in serious and imminent danger. This Standard outlines LU's arrangements for investigating and responding to such instances.
- 2.2 This Standard supports the following LU Polic(y)ies:

Number	Title	Version
1-01102-001	Health and Safety	A1

3 Requirements

3.1 Refusal to work – initial review and response

- 3.1.1 Where an employee believes that to start/continue work would place themselves or others in serious and imminent danger, they shall stop work and report the matter immediately to their manager.
- 3.1.2 The manager shall inform the local Health and Safety Representative as soon as practicable.
- 3.1.3 If the manager, in consultation with an SQE Adviser, determines that there is no serious or imminent danger, the reported issue and the reasons why the risks are considered to be as low as reasonably practicable shall be recorded and communicated to the employee and the relevant Health and Safety Representative. Following this the employee shall be requested to work normally and the steps outlined in clauses 3.1.7 to 3.1.12 shall not be required.
- 3.1.4 In the event that there is a failure to agree that the risks are as low as reasonably practicable, the relevant Workplace Risk Assessments shall be reviewed by the manager in consultation with an SQE adviser. This review shall be recorded and the outcome advised to the Employee and relevant Health and Safety Representative.
- 3.1.5 If the review of the Workplace Risk Assessment confirms that risks are as low as reasonably practicable the employee shall be requested to work normally.
- 3.1.6 Pending the review of the Workplace Risk Assessment the employee shall work in accordance with 3.3.2.
- 3.1.7 If the manager determines that serious and imminent danger is confirmed the manager shall explain how the matter will be dealt with and what work the employee shall be required to undertake whilst the matter is being investigated (section 3.3.2 refers).



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- 3.1.8 The local Health and Safety Representative shall also be informed of the actions being taken as soon as practicable.
- 3.1.9 The refusal to work shall be recorded and investigated in accordance with LU Standard 2-05105-502 "Incident Reporting and Immediate Investigation".
- 3.1.10 The investigation shall involve the individual(s) concerned and their Health and Safety Representative(s). Where a local Health and Safety Representative from the same function is unavailable, the functional Health and Safety Council shall be informed.
- 3.1.11 The investigation shall include a review and assessment of the risk in accordance with the LU Standard 2-05102-211 "Workplace Risk Assessment".
- 3.1.12 Details of results of the risk assessment shall be recorded on the Incident Reporting Form.

3.2 Potential dangers affecting more than one location

- 3.2.1 This section of the standard shall apply where a potential danger affects more than one location.
- 3.2.2 Where employees believe that to start/continue work would place themselves or others in serious and imminent danger across more than one location, they shall stop work and report the matter at once to their respective managers and local Health and Safety Representatives.
- 3.2.3 The relevant Health and Safety Council shall be informed as soon as practicable.
- 3.2.4 A senior LU manager shall be appointed to co-ordinate the actions required below.
- 3.2.5 If the LU senior manager, in consultation with a SQE Adviser, determines that there is no serious and imminent danger, the reported issue and the reasons why the risks are considered to be as low as reasonably practicable shall be recorded and communicated to the employee(s) and the relevant Health and Safety Representative(s). Following this the employees shall be requested to work normally and the steps outlined in sections 3.2.9 to 3.2.12 shall not be required.
- 3.2.6 In the event that there is a failure to agree that the risks are as low as reasonably practicable the relevant Workplace Risk Assessments shall be reviewed by the manager in consultation with an SQE adviser and others as considered appropriate. This review shall be recorded and the outcome advised to the Employees and relevant Health and Safety Representative(s).
- 3.2.7 If the review of the Workplace Risk Assessment confirms that risks are as low as reasonably practicable, the employee shall be requested to work normally.
- 3.2.8 Pending the review of the Workplace Risk Assessment the employee shall work in accordance with 3.3.2.
- 3.2.9 Where serious and imminent danger is confirmed, the appointed LU senior manager shall ensure that the following steps are undertaken:
- investigation of any potential dangers that may arise and recording the details on a single Incident Review Form in accordance with LU Standard 2-05105-502 "Incident Reporting and Immediate Investigation"



- as part of the investigation, undertaking a review and assessment of the risk in accordance with LU Standard 2-05102-211 “Workplace Risk Assessment”
- consultation with the local Health and Safety Representatives and relevant Health and Safety Council
- consultation, as appropriate, with any relevant external bodies.

- 3.2.10 The results of the investigation and risk assessment shall be communicated to the potentially affected employees, Health and Safety Representatives and managers along with details of the actions taken to eliminate or control the risks.
- 3.2.11 Following the completion of the above steps and the reduction of any risks to levels that are as low as is reasonably practicable, employees shall work normally.
- 3.2.12 Pending the completion of the investigation or in the event that the risk assessment confirms that a serious and imminent danger exists, the steps outlined in section 3.3.2 below shall be followed.

3.3 Continuation of work

- 3.3.1 Following the completion of the investigation into the report of the confirmed serious and imminent danger, work shall continue normally where:
- the risk has been eliminated or controlled by introducing precautionary measures or a modified system of work, or,
 - the results of the risk assessment indicate that the level of risk is “low”.
- 3.3.2 Pending the completion of the investigation or where serious and imminent danger has been confirmed, the manager shall advise the employee concerning the continuation of work. This shall be one of the following, at the discretion of the manager, but shall not affect payment terms and conditions of the employee(s) :
- the employee shall undertake reasonable alternative work within the workplace until the end of the working day/shift
 - the employee shall undertake reasonable alternative work at another designated location/workplace until the end of the working day/shift
 - the employee shall remain at the workplace, or other designated location/workplace, until the end of the working day/shift
 - the employee shall be sent home.
- 3.3.3 When giving the employee alternative work the manager shall ensure that it is remote from the serious and imminent danger reported by the employee.

3.4 Right of appeal

- 3.4.1 In the event that there is a failure to agree that the confirmed serious and imminent danger has been eliminated or controlled, there shall be the right of appeal. Such appeal shall be in writing and shall only be allowed on the grounds that the risk assessment undertaken as part of the investigation has not been conducted in accordance with LU Standard 2-05102-211 “Workplace Risk Assessment”.
- 3.4.2 The grounds for the appeal shall be reviewed by the manager and the relevant Safety Quality and Environmental Manager in conjunction with the employee(s) and the



Health and Safety Representative and, in the case of issues that affecting more than one location, the relevant Health and Safety Council.

3.4.3 Pending the review of the appeal, the employee(s) shall work in accordance with 3.3.2.

3.4.4 If the appeal review concludes that the risk assessment has been undertaken in accordance with the LU Standard (ref. 3.1.11 and 3.2.9 above) the employee(s) shall work normally.

3.5 Review

3.5.1 Following the incidence of a confirmed serious and imminent danger leading to refusal to work on the grounds of health and safety, the manager in conjunction with a competent SQE Adviser shall ensure that a review is undertaken with the Health and Safety Representative to assess and record the impact (if any) upon:

- workplace and customer risk assessments and the resulting control measures
- LU Standards.

3.5.2 Details of the incident and the results of the review shall be provided to the appropriate Health and Safety Committee and/or Health and Safety Council meetings.

3.5.3 Where a hazard has implications for more than one location, the responsible manager, in conjunction with the relevant Safety, Quality and Environmental Manager shall immediately advise all other functions that might be similarly affected, and the Health and Safety Councils. This shall be confirmed in writing.

4 Responsibilities

4.1 All responsibilities in relation to this standard are outlined in section 3.

5 Supporting information

5.1 Background

5.1.1 Under the Employment Rights Act 1996, employees have the right to formally protest, free from fear of reprisal, where they are genuinely concerned for their safety or the safety of others because of any aspect of their work. They have the right to stop work or ask for alternative work where they have reasonable grounds to believe that serious and imminent danger exists.



6 References

6.1 References

6.1.1 Statutory documents

Document no.	Title
--	Safety Representatives and Safety Committees Regulations 1977 (as amended)
--	Health and Safety (Consultation with Employees) Regulations 1996.
--	Employment Rights Act 1996
--	Management of Health and Safety at Work Regulations 1999

6.1.2 LU company documents

Document no.	Title
5-527 (formerly 2-05102-211)	LU Cat 5 Standard - Workplace Risk assessment
5-557 (formerly 2-05105-502)	LU Cat 5 Standard - Incident Reporting and Local Investigation

6.2 Abbreviations

The following topic-specific definitions are created:

- a. within London Underground's Glossary of Terms (a Category 1 Standard, No.1-622);
- b. from published sources that are clearly identified.

Abbreviation	Definition	Source
IRF	Incident Reporting Form	a
LU	London Underground	a
SQEM	Safety, Quality and Environment Manager	a

6.3 Definitions

The following topic-specific definitions are created:

- a. within London Underground's Glossary of Terms (a Category 1 Standard, No.1-622);
- b. from published sources that are clearly identified.

Term	Definition	Source
Health and Safety Representatives	Persons appointed as a Safety Representative by a Trade Union under the Safety Representatives and Safety Committees Regulations 1977 or nominated by employees as a Representative of Employee Safety under The Health and Safety (Consultation with Employees) Regulations 1996.	a
Reasonable alternative work	Work within the general ability of the individual concerned that would not put him/her in breach of any other LU Standard in terms of competence/training requirements.	a



6.4 Document history

Edition	Date	Changes	Author
Issue 1	Jun 2003	HSEMS Review 2003 - revision and amalgamation of Stations and Trains procedure B8.1-03-2 and (LUL)8.1-03, both titled "Refusal to work on the grounds of safety", into company standard.	Catherine Behan
Issue 2	Jun 2005	To take into consideration network wide actions and to provide additional clarity in respect of responsibilities, continuation of work and failure to agree.	David Burton
Issue 3	Apr 2008	This Standard was renumbered from 2-05104-402 to 5-547, to be in line with the Standards Renumbering Project across LU. General non-material changes to terminologies and document reference numbers to reflect organisational updates.	Mark Moore



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