

SAFETY COUNCILS IMPORTANT ADVICE



TUBE LINES INDUSTRIAL ACTION 19:00hrs, Wednesday 23 - 18:59hrs Friday 25 June

PUT YOUR SAFETY AND THE SAFETY OF PASSENGERS FIRST!

Tube Lines workers are set to strike from 19:00hrs on Wednesday 23 June through to 18:59hrs Friday 25 June. Tube Lines are responsible for crucial maintenance and engineering roles from lifts and escalators to signals and track - primarily, though not solely on the Jubilee, Northern and Piccadilly Lines.

Importantly, Tube Lines are responsible for the Emergency Response Unit that covers the entire network and is fundamental to the safe running of London Underground.

To ensure your own safety and that of others during the period of industrial action you are advised to approach your management prior to carrying out your duties for assurances that a safe system of work is in place.

Your legal rights and LUL's Refusal to work on the grounds of health and safety are attached.

TRAINS AND STATION STAFF - IS IT SAFE WITHOUT THE ERU?

What if... Your train derails? You have a one-under? You see smoke/fire in the Tunnel? You need to detrain in the Tunnel? Your motors fail? A tree falls on the line? The track is flooded? There's a bombing, a power failure, an explosion?...

**That's what the emergency response unit is for.
DON'T put your own safety and that of passengers at risk!**

Your Legal Rights – Safety

1) The principal safety legislation in the land, the Health and Safety At Work Act 1974 (Section 7) states:

The employee has a duty in: *“taking reasonable care for your own health and safety and that of others who may be affected by what you do or don't do”*.

2) Under the Employment Rights Act 1996, as amended, employees have the right not to be dismissed, selected for redundancy, or subjected to any detriment, on the following grounds:

a) the employee left, or proposed to leave, or (while the danger persisted) refused to return to his or her place of work, or any dangerous part of it, in circumstances of danger he or she reasonably believed to be serious or imminent, and which the employee could not reasonably have expected to avert;

b) the employee took, or proposed to take, “appropriate steps” to himself or herself or other persons in circumstances of danger he or she reasonably believed to be serious or imminent.

This is explained in *“Harvey on Industrial Relations and Employment Law”* that:

“..(in) the case of the employee who believes himself to be in serious and imminent danger and who on that account quits work. The employee's belief must be both genuine and

reasonable. If he cannot reasonably avert the danger, then he is entitled to take himself out of harm's way. The employer must not victimise him for leaving the area of danger, or proposing to leave it, or refusing to return while the danger lasted”.

Case law has established that an employee's reasonable concerns may also cover serious and imminent danger affecting members of the public.

3) Further, in a recent case, union members working for LUL who refused to work during the fire-fighters dispute (2002/03) and who were not paid, had a hearing listed for their application that any deduction of pay was unlawful.

There were two arguments:

a) Based on law cited above, enabling anyone to absent themselves from the workplace when there is a serious and imminent danger and a significant risk, and this does amount to secondary action;

b) Based on a breach of contract relating to the implied term that the employer will provide for the health and safety of staff (see e.g. Johnson v Bloomsbury Health Authority).

LUL settled out of court and agreed to pay the applicants all the money they deducted.