



# Industrial Action Guidelines

## 1. Introduction

The University seeks to maintain a good and constructive relationship with its staff. To this end the University works with the two Trade Unions it recognises (UCU and UNISON) for representation and bargaining purposes. However, there are occasions where, despite the collective efforts of the University and the recognised trade unions, that this does not prove successful. Whilst relatively infrequent, such matters/issues may result in industrial action, following due legal process in the form of a ballot for industrial action.

Where industrial action does occur, the University will seek to ensure that normal operations and services are maintained as far as possible. Most importantly, the University will take all reasonable steps to fulfil its responsibilities to students in ensuring that any disruption is minimised, and that students are as far as possible not disadvantaged by the action.

The University respects the right of employees to take part in legal industrial action and this general guidance has been developed to provide information which will allow staff and managers to understand the University's approach to dealing with industrial action. It may be amended or added to in the future and information and decisions taken on specific instances of industrial action will be circulated to staff and managers at the time and communications will be coordinated by the Director of Human Resources.

## 2. Types of industrial action

There are two forms of industrial action:

- **strike action** – which involves a complete withdrawal of labour for a defined period of time, usually single, and/or intermittent days, or for a continuous (and specified) period; and
- **action short of strike**, or 'partial performance' – which involves a partial withdrawal of labour, or a refusal to carry out specified duties and responsibilities.

In order for such action to be lawful, the trade union(s) must comply with a regulated balloting process.

Whilst the University recognises that Trade Union members are entitled to participate in lawful industrial action, such action is likely to be a breach of contract and so there is no obligation to pay for work not done.

In the case of action short of a strike (partial performance), the University has the option to either accept or reject the partial performance. In relation to a particular dispute, the University will make it clear in advance whether it will accept or reject the partial performance. However, the University will normally reject partial performance and this will normally result in the withholding of pay.

### 3. Action to be taken by the University

Once a ballot result is declared, the Trade Unions potentially involved in any such action must give an employer at least 14 days' notice of the action which members will be called to take.

As soon as the outcome of any ballot is known and when the Trade Union(s) notify the University of the nature and timing of any proposed action, the Director of Human Resources will write to all relevant staff. This communication will ask each employee if they intend to take part in industrial action, or not.

- Any employee who fails to respond, or whose response is ambiguous, will be assumed to be taking part in industrial action.
- Employees will be asked to keep Human Resources informed if their position changes.
- The location of all staff on any day of strike action will be recorded.

It is important that staff are not in any way victimised for taking a decision to participate in lawful industrial action.

**Assessing the impact** - line managers will be required to assess the likely impact of industrial action in order to make appropriate arrangements, and work with the Senior Leadership Team to put contingency plans in place to protect normal operations and minimise any potential disruption to students, staff or visitors to the University.

Detailed instructions on information required will be circulated in advance of each instance of industrial action. Human Resources will coordinate and provide the relevant information.

## 4. Employees taking strike action

### 4.1. Recording Attendance

All full-time staff are normally required to work on campus on any day of strike action. This also applies to part-time staff (including HPAs and part-time lecturers) who are contracted to work for the University on the day or days of strike action. Staff must notify the relevant office when they arrive on Campus.

It will normally fall to Heads of Department to record absences and notify Human Resources of these absences; detailed instructions will be circulated at the time of the action.

The categories for recording attendance are as follows:

#### Categories with no effect on pay

- Attended work (campus)

- Working offsite (approved by line manager) – home working is not an option
- At a work-related event (approved by line manager).
- Sickness absence (medical certificate required).
- Hospital and Antenatal Care Appointments
- Annual leave (approved prior to industrial action being announced)
- Other authorised absence, including those on Maternity/Paternity/Adoption/Shared Parental leave

#### Categories where pay will be affected

- Engaged in industrial action
- Any member of staff not attending work or without authorised absence from work on any day of strike action will be deemed to be taking part in industrial action.

#### 4.2. Pay

Employees deemed as engaging in strike action will have a day's pay deducted for each complete day of strike action.

This is calculated at 1/365<sup>th</sup> of the annual salary (or on a proportionate basis for part-time staff).

Pay deductions made as a response to employees taking part in strike action or industrial action short of a strike are excluded from the unlawful deduction of wages provisions in the Employment Rights Act.

By exception, if a member of staff can prove significant financial hardship as a direct result of action taken and the related deductions, the University may consider staggering those deductions over a maximum period of three months. Instances will be considered individually and on their specific merits.

#### 4.3. Pension contributions & other deductions

Pension contributions will not be paid by the University or the employee on the day or days of any strike action.

The Trades Unions will normally advise staff members on the implications for pension cover for staff members taking part in industrial action.

Deductions for other benefits e.g. cycle to work scheme, car parking, childcare vouchers, etc will continue as normal.

#### 4.4. Annual leave

Annual leave requests for days of strike action or for a period which includes a day of strike action should not be granted after notification to the University of the date(s) of intended action.

Annual leave requests authorised before notification will be honoured.

## 4.5. Working from home

Requests for home-working on strike days will not be granted unless home is the normal place of work.

## 4.6. Sickness absence

Any employee reporting sickness absence starting on or including strike days must produce evidence in the form of a doctor's medical certificate. The University will not pay for medical certificates.

## 5. Employees taking action short of strike (“partial performance”)

Action short of strike action, or partial performance, is where the employee is willing to undertake some of their duties but refuses to undertake others. This is a breach of contract. The University will not accept partial performance and Human Resources will write to all staff, making this clear.

As outlined above (see Section 4), employees will be asked to indicate if they are taking part in industrial action - including action short of strike action. Where the employee fails to respond, or their response is ambiguous, it will be assumed that they are taking part in action short of strike action.

The University does not accept partial performance and will withhold pay as a day's pay deducted for each complete day of strike action.

A day's pay is calculated as 1/365th of the annual salary (or on a proportionate basis for part-time staff).

## 6. Employees not taking action

The majority of staff will be working normally and are entitled to attend work without fear of intimidation. Any such intimidation may be considered as a disciplinary matter. Managers should ensure that staff are not put under undue pressure by other staff taking action.

**Re-allocation of work** - work may be re-allocated to those staff who are not involved in industrial action. Such requests should be reasonable and within the capabilities and experience of the employee concerned and adequate training and health and safety issues should be addressed.

Line managers must give due consideration to workload distribution of those continuing to work normally with a view to minimising excessive demands upon willing colleagues.

## 7. Picketing

The law in relation to picketing is complex and guidelines will be published as/when action is called.

During industrial action, the University and the trade unions will commit to dealing promptly with inappropriate behaviour by either pickets or staff attending work. Any such instances should be reported to Human Resources immediately.

Staff should not be prevented from entering their normal place of work by pickets, but if they choose not to cross a picket line, they will be considered to have taken part in industrial action and appropriate pay deductions will be made.

## 8. Communications

Written communication for staff and managers will be co-ordinated centrally and approval/guidance should be sought from Director of Human Resources, who will be working closely with the Senior Leadership Team before writing to staff in relation to industrial action.

Any University-wide communication must have the approval of the Vice Chancellor, Director of HR or their nominated deputies.

All media or other external enquiries regarding industrial action should be referred to the University's Marketing & Communications department.