



Heriot-Watt University General Guidelines for Industrial Action Updated 2022

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1. Introduction

These guidelines provide general information about how the University will respond to any form of industrial action.

There are two forms of industrial action: strike action and action short of strike (also sometimes known as 'partial performance' or "working to contract").

Strike action is a complete withdrawal of labour for a defined period of time, e.g. single, and/or intermittent days, or for a continuous (and specified) period. Action short of strike typically involves a partial withdrawal of labour ('partial performance'), e.g., a refusal to carry out specified duties and responsibilities or staff withdrawing from voluntary additional tasks. In order for such action to be lawful, the trade union(s) must comply with a regulated balloting process.

Before an industrial action ballot, and following the outcome of a ballot, a trade union must provide certain information to the employer. This includes:

- What type of action is being considered
- The date or dates of such action
- The number, type and location of trade union members at each institution.

The trade union must also give the employer at least 14 days' notice of the commencement of any action.

The University recognises that trade union members are entitled to participate in lawful industrial action, but such action is a breach of contract.

The University will fully consider and seek to minimise the impact of any industrial action on students and colleagues.

In addition to these general guidelines, Human Resources will provide specific information to managers and staff, relevant to the intended action at any given time.

These guidelines will be brought to the attention of all staff in advance of any proposed industrial action.

It is important to remember that union colleagues participating in official disputes leading to strike action or action short of a strike are fully entitled to do so. We should respect their entitlement and views in the same way as we should respect the views of colleagues who do not belong to a union or wish to take action. On that basis, the University encourages all colleagues to acknowledge each other's' different views and to treat each other with respect in both language and behaviour in line with our Values and Respect Agenda.

2. Key Contacts

In order to monitor the impact of any industrial action effectively, each School and Professional Services Directorate will nominate a "key contact" prior to the action commencing, to work closely with the Head of Employee Relations and Policy. If no key contact is notified, HR will assume that the contact is the Head of Operations in each School, and the Director of each Professional Services Directorate.

3. University Response to Industrial Action

Employees taking part in industrial action in the form of a strike or partial performance will be breaking their contract of employment, as they will not be doing the work they are paid to do. Therefore, there is no obligation for the employer to pay for work not done.

The University is entitled to identify those taking part in industrial action. Employees will be asked about their intentions and informed of the consequences in relation to industrial action based on the nature of the proposed industrial action on a specific occasion.

Action to be taken is as follows:

When 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 Global Director of Human Resources will write to all relevant staff. This communication will ask each employee who intends to take part in industrial action to enter this as an absence in [Cloud ERP](#) promptly following the day or days of action.

Any employee does not work on a strike day, does not have an authorised reason for that absence and who fails to respond to questions relating to their absence will be assumed to be taking part in industrial action.

4. Employees Taking Action

Strike Action

Recording Non Attendance

All colleagues contracted to work for Heriot-Watt University on the day or days of strike action are required to work on any day of strike action and to notify their line manager as to where they are working.

Each School and Professional Services Directorate must ensure they know the whereabouts of all colleagues on any day of strike action. Following the days of industrial action HR will provide a list of those who recorded strike action on [Cloud ERP](#) and will pass this to the “Key Contacts” to provide any other relevant information and confirm it is accurate.

Any colleague not attending or performing their normal day’s work without their absence being authorised on any day of strike action will be deemed to be taking part in industrial action, alongside those who have informed the University that they are engaged in strike action.

Authorised Absence

We recognise that some colleagues may be absent from work on strike days for the standard legitimate reasons such as:

- Attending another workplace or conference
- Approved annual leave
- Sickness Absence
- Family Related Absence (maternity, paternity, dependant leave etc.)
- Other leave such as jury duty, compassionate leave, etc.
- Engaged in strike action (recorded on [Cloud ERP](#) by the individual by the day following the day of the industrial action). Strike Action does not need to be “approved” by line managers and they will not receive individual notifications of such leave being recorded.

Where annual leave has already been booked and approved, it will be honoured. If managers receive further requests for leave on the days of the strike, they will consider the impact on delivery of services to colleagues and students in the normal way and may decline requests in

line with normal policies.

Requests for leave for any reason¹ is subject to the standard process of requesting via [Cloud ERP](#) and the time being confirmed “approved” by the line manager in [Cloud ERP](#)

Any member of staff who does not attend or carry out their normal work and whose absence has not been authorised on any day of strike action will be deemed to be taking part in industrial action, alongside those who have informed the University that they are engaged in strike action.

Staff Based Offsite or Working Elsewhere, including Hybrid Working From Home

Colleagues scheduled to attend external work-related events notified and approved before strike action commenced may still do so even if it is a strike day.

Where Heriot-Watt staff are required to work offsite on a strike day the responsible manager should verify their attendance. This would include those who are currently working a hybrid pattern. They will be expected to attend campus if this is their usual practice; and to notify the line manager if they are working from home on a strike day.

Where an employee is seconded to work elsewhere but remains contracted to Heriot-Watt the responsible manager at Heriot-Watt must verify the individual’s attendance at their normal (seconded) place of work.

Other Employers’ Staff Working on Heriot-Watt Premises

Other employers’ staff working on Heriot-Watt premises are outside the dispute and accordingly should attend for work. If they are persuaded by picketing not to attend, their employer should be notified.

Annual Leave

Requests for annual leave must be recorded on [Cloud ERP](#) and approved by the line manager. However, Line Managers are able to refuse requests for annual leave where granting the time off may affect the delivery of the business or cover would be reduced to inappropriate or safe levels.

Sickness Absence

As for all absences due to sickness, any employee reporting sickness absence starting on or including strike days must ensure their absence is recorded in [Cloud ERP](#) . For details of how to do this please visit <https://heriotwatt.sharepoint.com/sites/CloudERP>. If the absence is longer than 7 calendar days, a fit note must be produced.

Maternity/Paternity/Adoption/ Shared Parental Leave

Anyone on maternity, paternity, shared parental, or adoption leave is on authorised absence and is therefore unaffected by any industrial action. They do not need to enter anything further in [Cloud ERP](#)

Action Short of Strike Action / Partial Performance

An employee is not entitled to pick and choose which of their contractual duties they will undertake. Action short of strike action, or partial performance, is a breach of contract.

The University will not accept partial performance and HR will write to all staff, making this clear. Any member of staff who indicates they are taking part in industrial action of this type or it becomes apparent in other ways, will have pay withheld. (See below).

As outlined above, employees will be asked to indicate if they are taking part in industrial

¹ With the exception of strike action
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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.

5. Impact on Pay

Strike Action

Pay

Pay will be deducted for complete days of action at the rate of one day's pay. This is calculated at 1/365th of the annual salary.

Full notional salary will be used for those employees with salary sacrifice arrangements in place.

Pension Contributions

According to Pension Scheme rules, a strike involves suspension of individual membership of the scheme for the period of the strike. If a member were to die during this suspension, then:

- Death in service benefits are not payable
- Widow's benefit would be reduced

USS Pension Members

The University will continue to pay the employer's contribution and deduct the employee's contribution as though the striking member had worked on that day. **Payroll will assume that the employee wishes the payments to be made unless they specifically instruct Payroll not to make their contributions.**

It is important to note that both the employee's contributions need to be paid to avoid the suspension of the membership becoming effective. If an employee elects not to make their contributions, the employer's contributions will also not be made.

USS have also confirmed that, in the event that employer and member contributions are not maintained for the period of industrial action proposed, members will continue to be covered for death in service and ill health retirement. The Pensions Trustee reserves the right to review this policy and the right to charge additional contributions if the industrial action notified is extended or further action is proposed.

LGPS Members

Under LGPS rules, employers may not continue to pay the employers' contribution, but you do have the option to pay for the lost pension, through an additional pension contribution (APC). As no employer contributions are payable, you will bear the full cost of the APC.

National Insurance Contributions

National Insurance contributions will not be deducted for any days where an employee earns no pay due to industrial action.

Partial Performance

The University does not accept partial performance and will withhold up to 100% of a day's pay in all instances of industrial action or any action that involves full or partial withholding of labour. Action Short of a Strike may be considered partial performance but a decision will be taken according to specific disputes and industrial action. All staff will be advised if deductions for partial performance are to be made in any period of strike or action short of a strike.

6. Employees Not Taking Action

Staff not taking action are entitled to attend work without fear of intimidation. Any such intimidation may be considered as a disciplinary matter and will be fully investigated under the relevant Policy. Managers should ensure that staff are not put under undue pressure by other staff taking action.

7. Picketing

The law in relation to picketing is complex therefore the statements below are guidelines only.

Picketing can take place at any time during a dispute.

Picketing can only occur at, or near to an entrance or exit from a site at which those picketing work, but not on University premises¹. It is not lawful for pickets to picket at any place of work other than their own, even if they work for the same employer or are covered by the same collective bargaining agreement. Trade union representatives are exempt from this requirement.

Should picketing occur on University premises, Human Resources should be informed in advance. The [Govt Code of Practice on Picketing](#) provides the legal guidance as to what is reasonable. The Code suggests that pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to or exit from a workplace and that frequently a smaller number will be appropriate.

These are not hard and fast rules but it is very likely that the courts would view six as the appropriate number.

A picket can be either a current employee who is in dispute with the employer or a trade union official, either local or national.

A picket is allowed to attend with the intention of peacefully obtaining or communicating information or persuading people to work or not to work. A picket has no right to stop people, oblige them to listen or to exert pressure upon them.

If you believe that the picketing is inappropriate in any way, please contact Human Resources for further advice.

8. Information for Staff

To ensure that all staff are clear about the effect on them of any industrial action, this policy will be brought to the attention of all relevant staff whenever industrial action is notified. In addition, Human Resources will write to all relevant staff, providing information and guidance in relation to the planned and notified industrial action, including in relation to the impact on students.

9. Information for Managers

HR will write to all managers and Key Contacts to clarify their roles and responsibilities in any strike action or action short of a strike. All managers will have an important role to play in assessing and reporting the number of staff taking part or absent without authorisation, including assisting Human Resources in briefing all relevant managers and supervisors.

10. Further Information and Help

Please contact [HR helpdesk](#) for all HR or Payroll queries.

¹ Immediately inside the Riccarton Campus at The Avenue is usually permitted to avoid unsafe picketing at the roundabout

11. Responding to the Media

Staff, including managers should not speak to the media on behalf of the University and are reminded that even a view expressed privately may form the basis of an adverse quote used to damage Heriot-Watt. Please refer all media enquiries to the Communications Officer; mediaenquiries@hw.ac.uk or 0131 451 8099/3242.