

## Industrial Action Frequently Asked Questions - Updated 18 February 2020

The following Q&As are intended as a guide for staff and managers during legal industrial action by one or more of the trade unions recognised by the University; they will be updated from time to time to amend guidance or to include new information as appropriate. If you have further questions you should speak to your line manager or contact [HRHelp@hw.ac.uk](mailto:HRHelp@hw.ac.uk)

More general guidance on Industrial Action may be found here - [General-guidelines-for-industrial-action.pdf](#)

### 1. Who is taking strike action?

The strike action due to re-commence in February 2020 has been called by UCU in relation to disputes over the 2019-20 pay award and the USS pension scheme. Action has been called on the following dates:

- 20<sup>th</sup>, 21<sup>st</sup>, 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> February
- 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> March

Although Unite, Unison and EIS also balloted for strike action over the pay award, they did not have a sufficiently high turnout and therefore do not have a mandate to take legal strike action.

### 2. **NEW** Do I need to declare my intention to take strike action in advance?

No. In the ordinary course of planning resources, colleagues or managers may ask if you are available on a particular day or for a particular event. We would ask that you answer the question honestly but in this context, we would understand if you do not give a reason why you are not available.

### 3. If I go on strike, how will the University know if I am taking part?

The University will email all relevant staff before strike action begins, advising them of the need to confirm if they do take strike action although there is no obligation to do so in advance. All staff taking strike action will be required to enter their absence in iHR under Unpaid Leave – Strike Action. In addition each area will be asked to provide details of individuals who took part in strike action.

### 4. I am a line manager but I am also a member of the union and intend to take strike action. How does the time taken off for strike action for me and my team members get reported?

All managers who are responsible for approving leave requests in iHR should delegate their rights to a colleague when they are expecting to be out of the office. If you wish to take strike action as a line manager you should, as part of your normal duties and responsibilities, arrange with a colleague to delegate your manager rights to them for the days that you will not be working if they agree to do so. However in practice colleagues will most probably not be entering their absence due to strike until you and they have returned to work so you can act as manager for their entries in iHR. You should also record your own absence in iHR for your line manager to confirm “approve”.

NOTE: It is very important that either you or a delegated colleague approves strike action in iHR as quickly as possible so as to enable timely deductions to be made, particularly for those colleagues who have recorded their absence in good time.

**5. If I go on strike for a day, how much will be deducted from my salary?**

Strike action is a breach of contract and in line with University policy, anyone taking strike action will receive a deduction from salary as follows:

Full-time members of staff:

- a deduction equivalent to 1/366<sup>th</sup> of annual salary for each day on which you take strike action

Part-time/ condensed hours members of staff:

- a deduction equivalent to 1/366<sup>th</sup> of your pro-rated salary for each day on which you take strike action

**NOTE** the deduction is different in 2020 due to the Leap Year

**6. When will I see the deduction from my salary?**

Given the notified dates of the strike action, the University proposes to deduct salary for action taken in February from the **April** Pay Run and to deduct salary for action taken in March from the **May** Pay Run.

**7. When do I need to record my strike action?**

To ensure pay deductions can be spread across April and May it is essential that **all** strike absences in are entered in to the system and approved no later than **midday on 30<sup>th</sup> March**. This will enable deductions to be made in a timely and consistent manner from all participating colleagues.

**8. If I go on strike will this affect my pension?**

Under pension scheme rules, strike action automatically suspends membership of the pension scheme, including payment of death in service benefits. The University is not obliged to make pension contributions for scheme members when they are on strike. However, if you do take strike action, we will continue to pay the employers' contribution and deduct employee contribution as though you had worked normally.

**9. Do I need to inform anyone about my pension contribution?**

No, the Payroll team will automatically make the deduction unless you instruct them not to by emailing them at [PayrollHelp@hw.ac.uk](mailto:PayrollHelp@hw.ac.uk).

**10. If there are pickets at the entrances to the University, can I cross a picket line?**

Picketing of workplaces is protected by law and, any previous picketing at the University has generally been undertaken peacefully and courteously. Pickets may try to persuade you peacefully to support the industrial action; however, staff who wish to work have the right to do so and will be allowed to cross the picket line. If you decide not to cross the picket line, you will be considered to have joined the industrial action and pay will be deducted accordingly.

**11. I don't want to cross the picket line but I do want to work on strike days. Can I work from home?**

Line Managers will not typically give permission for ad hoc arrangements to work at home on strike days. You must report to your normal place of work on the strike day unless you are have made prior arrangements to be away from base; for example to attend a conference. If you have a particular concern please discuss this with your line manager ahead of the strike days.

**12. I am due to be off campus at a conference/external meeting/secondment to another organisation. What should I do?**

If you are working away from your normal base for any reason (e.g. attending a conference) on a strike day you should contact your line manager or another manager at Heriot-Watt to advise them of your absence if you are taking strike action, or to advise them that you will be working as normal. Your manager may also contact you to confirm your whereabouts. If you are not at work and your Line Manager is not aware of the reason for your absence, it will be assumed that you are taking part in the strike and salary deductions will be made.

**13. Can I take annual leave during strike action?**

If you had annual leave booked and approved through iHR prior to strike action being communicated, it will be honoured. If, due to unforeseen circumstances, you need to request to take annual leave on a strike day, you should discuss the reasons for this with your line manager before putting the request through iHR. Your manager will consider your request in line with normal approval arrangements and may decline requests if they consider there will otherwise be a detrimental impact on the delivery of services.

**14. What happens if I'm sick on the days when there is a strike?**

If you are off sick on a strike day, you must notify your manager of your sickness absence before your normal starting time or, where this is not reasonably practicable, within one hour of it, as required by the University's [MaximisingAttendancePolicy.docx](#)

**15. What happens if I have to take leave for child-care or other family or emergency reasons?**

If you are scheduled to be on long-term maternity, paternity, Shared Parental or Adoption Leave, or for any other reason as set out in the Supporting Family Life Policy [SupportingFamilyLifeOverarchingPolicyUKcampusesrev.docx](#) this will be honoured. If you need to take a day's leave that would fall under Emergency Dependant Leave, Compassionate Leave or any other short-term absence, please discuss this with your line manager before putting the request through iHR. In these circumstances, managers will do their best to accommodate your request (please note that Emergency Dependant Leave is unpaid).

**16. What happens if I have a hospital appointment on a strike day?**

You should advise your line manager if you have a medical appointment of any type on a strike day, and follow the guidance set out in the Time off for Medical Appointments Policy [Guidance on time off for medical dental.pdf](#)

**17. Updated I am employed on a Tier 2 Visa – does taking strike action affect my visa conditions?**

The Immigration Rules allow employers to reduce your pay if you are taking strike action as part of a legally organised industrial action (as this is), as authorised unpaid absence, without there being an impact on your visa or your right to live and work in the UK.

However, it is important that you enter your absence in iHR as Unpaid Leave-Strike Action as soon as possible after your absence as otherwise the university would have to report your absence as unauthorised to the Home Office in line with their regulations.

**18. Does taking strike action affect continuous service?**

No, taking legal strike action on one or more days does not break your continuity of employment. However, strike days are not counted when accruing statutory entitlements e.g. qualification for maternity pay etc.

**19. UCU has advised me of continued Action Short of a Strike – what does this mean?**

Action Short of a Strike (ASOS) can take different forms. On some occasions this may mean not performing some of your normal duties rather than stopping work entirely for a specified time. Alternatively it may take the form of working strictly to contract and withdrawing from voluntary activities. The union will advise what this means specifically for each period of industrial action.

Starting in November 2019 and running continuously until 29<sup>th</sup> April 2020, the Action Short of a Strike consists of

- working to contract
- not covering for absent colleagues
- no rescheduling lectures or classes cancelled due to strike action
- not sharing of materials relating to lectures or classes cancelled as a result of strike action
- not undertaking any voluntary activities

**20. I have been called on by my union to “work to contract”, what does this mean?**

Your contractual obligations cover not only what is written in your contract of employment and related documents but also the customary ways in which people have worked in your area and the implied duties of fidelity and good faith. Any action which would entail non-compliance with any of these aspects of your contract may be deemed to be a breach of contract. The University will not accept partial performance of your contract and reserves the right to make appropriate deductions from your salary.

The University will write to all relevant staff in advance of the start of industrial action outlining the trigger point for withholding pay in particular circumstances.

In relation to the action commencing in November 2019 and continuing based on the information set out above the University does not anticipate that this will amount to partial performance and hence would not anticipate the need to deduct pay in relation to ASOS.

There will be no reimbursement of withheld pay to staff after you cease the industrial action, including where work is completed after returning to normal working.

**21. NEW Can I be asked to cover for a striking colleague?**

Managers should not ask non-striking colleagues, regardless of whether or not they are in a union, to cover for colleagues taking strike action. The only time when this might be appropriate is where there would be serious Health and Safety or compliance implications (e.g. needing a registered key-holder to open or be present in a lab) if the absence were not covered. Such situations would be rare and exceptional.

**22. What is the university proposing to do with the salary deducted from staff who take strike action?**

The university will use any salary deduction to maintain the quality of the student experience. This will include a contribution to the Student Hardship Fund.