



**Heriot-Watt University  
General Guidelines for Industrial Action  
Updated 2018**

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## **1. Introduction**

These guidelines provide relevant information in relation to 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 known as ‘partial performance’).

Strike action 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. Action short of strike involves a partial withdrawal of labour (‘partial performance’), 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.

A trade union, in advance of an industrial action ballot, and/or following the outcome of a ballot, is obliged to provide certain information to the employer. This includes:

- The nature of the action that is contemplated.
- The date or dates of such action (this can be described as ‘continuous’).
- 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 such action.

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

The University will properly consider the impact of any industrial action on students, and on work colleagues, and will respond accordingly. Such action will have an impact on pay. 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.

## **2. Key Contacts**

In order to respond to any form of industrial action effectively, each School and Professional Services Section will nominate a “key contact” prior to the action commencing, to work closely with the REE Consultant for the area. If no key contact is notified, HR will assume that the contact is the Director of Administration in each School, and the Director of each Professional Services Directorate.

## **3. University Response to Industrial Action**

The position is as follows:

Employees taking any form of industrial action 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.

The University will not accept partial performance (see further note below).

***Action to be taken is as follows:***

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

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 Resource Development 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 iHR either on the day or before the day that the action is planned. Any employee who fails to respond, or whose response is ambiguous, will be assumed to be taking part in industrial action.

#### **4. Employees Taking Action**

##### **a. Strike Action**

##### ***Recording Non Attendance***

All full-time staff are required to work on campus on any day of strike action. This also applies to part-time staff who are contracted to work for Heriot-Watt University on the day or days of strike action.

Exceptions may be made for attendance at external work related events appropriately approved before strike action commences. However, during strike action working at home is not an available option, (unless it is a currently approved and ongoing amendment to the contract).

Each School and Professional Services area must ensure they know the whereabouts of all staff on any day of strike action. Following the days of industrial action the Reward and Employee Engagement Team will provide a list of those who recorded strike action on iHR and will pass this to the “key contacts” to provide any other relevant information and confirm it is accurate.

The categories for absence are as follows:

- Working offsite (Approved) – home working is not an option.
- At a work related event (Approved).
- Sickness absence (must be recorded on iHR by line manager and closed off by employee).
- Annual leave, (authorised in advance of notification of the day(s) of action, i.e must have been approved and on iHR).
- Other authorised absence – including for example, maternity leave, paternity leave, dependant leave, jury duty.
- Not contracted to work for Heriot-Watt University
- Engaged in strike action (recorded on iHR by the individual at the latest by the day following the day of the industrial action). [iHR Guidance](#)

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Any member of staff not attending work or without authorised absence from work (for one of the reasons outlined above) on any day of strike action will be deemed to be taking part in industrial action, as will those who have informed the University that they are engaged in strike action.

### ***Staff Based Offsite or Working Elsewhere***

Where Heriot-Watt staff are required to work offsite on a strike day the responsible manager should verify attendance.

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 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. Human Resources must also be notified.

### ***Annual Leave***

No annual leave requests for days of strike action or for a period which includes a day of strike action should be granted after notification to the University of the date(s) of intended action or a date otherwise determined by the University. Annual leave requests authorised before this will be honoured. The annual leave must be recorded on iHR and approved by the line manager in advance of the date notified by the University.

### ***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 on iHR. For details of how to do this see guidance [attendance at work guidance](#) If the absence is longer than 7 days, a fit note should be produced.

### ***Maternity/Paternity/Adoption/ Shared Parental Leave***

Anyone on maternity, paternity, shared parental or adoption leave is in the position of being on authorised absence and is therefore unaffected by any industrial action.

## **b. 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 Reward and Employee Engagement 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 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

### a. 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*

The University's pensions scheme managers warn that a strike involves suspension of members of the scheme for the period of the strike. Previously USS have stated that if a member were to die during this suspension then:

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

**However, USS have confirmed in the event that employer and member contributions are not maintained for the period of industrial action proposed for February/March 2018, members will continue to be covered for death in service and ill health retirement.**

Please note that the trustee reserves the right to review this policy and the right to charge additional contributions if the industrial action proposed for February/March 2018 is extended or further action is proposed.

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.**

#### *National Insurance Contributions*

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

### b. 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.

## 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. Managers should ensure that staff are not put under undue pressure by other staff taking action.

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## **7. Picketing**

The law in relation to picketing is complex therefore the statements below are intended as 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 premises. 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. The 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, lay or salaried.

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 to 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. In addition Human Resources will write to all relevant staff, providing information and guidance in relation to particular industrial action, including in relation to the impact on students.

## **9. Information for Managers**

The Key Contacts referred to earlier will have an important role to play, including assisting Human Resources in briefing all relevant managers and supervisors.

## **10. Further Information and Help**

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Please contact the Reward and Employee Engagement Team. Employee-Reward.Engagement@hw.ac.uk

## **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](mailto:mediaenquiries@hw.ac.uk) or 0131 451 8099/3242.