

**Industrial Action - Frequently Asked Questions**

**1. Do employees need to complete a participation form?**

To enable institutions to plan properly and safely, employees who are expecting to take part in industrial action are asked to advise their Departmental Administrator, or equivalent, in advance by completing the relevant ‘participation forms’ circulated to all employees.

**2. Will employees’ pay be withheld?**

The University considers that participation in the notified industrial action would constitute a breach of contract. It should also be noted that legally the University is not obliged to pay any salary to employees who choose to perform of limited duties. However, at the present time, the University is adopting the approach to limit deductions to 25% of pay for each date that the employee specifies that they will be participating in action, without prejudice to the University’s right to deduct 100% of pay. We will keep the percentage of the deduction under review.

**3. How can an institution cover work not completed by those taking part in industrial action?**

Institutions will need to give careful consideration to whether any of the work that will be disrupted by the industrial action is essential work that must be covered by some other means. Such work may be reallocated to employees not taking part in the action, subject to the terms of their contracts. However employees should not be asked unreasonably to take on the duties of colleagues who choose to take industrial action, or to undertake duties that they are not competent to perform. Institutions should consider the appropriateness of the work in relation to the employee’s duties, position and skills/qualifications, as well as how necessary the cover is. The work may need to be covered through the use of additional temporary staff where this can be practically arranged in time e.g. casual staff such as TES temps. In order to make the necessary cover arrangements Institutions may wish to ask their employees to notify them of their participation in industrial action as early as possible.

Please note that external employment agencies are prohibited from supplying temporary agency workers to cover the work of employees taking part in industrial action. This includes providing cover for:

* employees who are taking part in official industrial action; or
* employees who have been temporarily moved by the employer to cover the employees taking part in official industrial action.

**4. Can employees opt to take leave at a time when industrial action is being called?**

It is normal practice that leave has to be taken at times agreed between the individual and their manager. In the event of industrial action, institutions are advised to make it clear to employees and their managers that leave will not be agreed at times that coincide with key industrial action dates to ensure appropriate cover is available, unless it has already been arranged or unless requested for exceptional reasons.

It may also be necessary for Institutions to amend the normal reporting arrangements as set out under question 7 below.

**5. Can an employee be on sick leave during industrial action?**

Employees who are absent on account of sickness before industrial action starts and on the day of industrial action should be assumed to be on sick leave, providing that the necessary certification[[1]](#footnote-1) is produced. If the employee reports as sick on the day the action starts, the Institution will need to make its own judgement, taking into account any evidence that the employee can provide, whether he or she should be regarded as on sick leave or taking part in industrial action. Advice can be sought from the relevant HR Adviser.

**6. What do Institutions do about employees undertaking shift work or on rest days on the day of industrial action?**

Institutions are advised to plan and communicate their policy on industrial action which occurs before or during rest days. Similarly, institutions will need to decide the start and finish times for a ‘day’ in terms of shift workers.

**7. What if someone changes their mind and decides to participate in industrial action having previously confirmed that they would not?**

Line managers will need to be responsible for monitoring who is and who is not participating in the industrial action. The approach to be taken by the University will have previously been circulated to all employees so there will be no reason for employees not being aware of the consequences.

If an individual has already been paid it is reasonable to withhold pay from the next available pay-run. The amount of pay withheld will be in accordance with the University’s approach set out above.

**8. What happens where a line manager is taking part in industrial action and feels unable to cooperate in the management of the dispute?**

If a line manager, supervisor or other employee in charge of staff is taking part in the industrial action and does not feel able to cooperate in the people management issues that arise during the dispute, they are asked to notify their Departmental Administrator or Head of Institution so that alternative arrangements can be made. For example employees calling in sick, arriving late due to travel disruptions or requesting emergency leave due to School closures, will need to be advised to contact an alternative individual in accordance with the Institution’s local reporting requirements.

Please note however that all employees must co-operate with reasonable management instructions during the period of the dispute. Where non-cooperation is not part of the industrial action specified by the relevant union, employees may be subject to disciplinary procedures as this would not be covered by ‘protected official action’ provisions. An example could be refusing to assist the institution in identifying employees taking part in the industrial action prior to or after the day of action.

**9. What should employees do if they cannot attend work due to a workplace closure?**

In exceptional circumstances, it may be necessary for Heads of Institution to close an employee’s place of work. If the employee cannot work in another part of the University or at home (or no work is available to them) employees should be paid as normal.

1. Employees must provide a self-certification form for up to seven calendar days’ absence and a medical certificate from a doctor after seven calendar days’ absence in accordance with normal practice. [↑](#footnote-ref-1)