

Withholding Pay Policy

From: Head of Employee Relations

Date: January 2018

UNIVERSITY POLICY

1. Introduction

- 1.1 The University seeks to maintain a good and constructive relationship with its staff. To this end the University works with the three Trade Unions it recognises (UCU, UNISON and Unite) for representation and bargaining purposes.
- 1.2 Industrial action can harm the relationship and hinder the University's ability to deliver excellence to its students, customers, and clients. The University hopes it is a shared objective of this relationship to avoid industrial disputes.
- 1.3 The University seeks to make it clear to staff that industrial action is not cost free and to discourage them from participating in such action by helping them to understand the impact and cost of such action.

2. Withholding Pay – Strike Action

- 2.1. Employees who participate in a strike will have their pay deducted for each day not worked at the following rate:
 - 2.1.1. Levels 4 and above 1/365th of their annual salary – to recognise the contract obligation to work such hours as may be reasonably necessary for the performance of their duties and therefore there are no specific limits around working hours and when duties may be undertaken.
 - 2.1.2. Levels 3 and below 1/260th of their annual salary – to recognise the contract sets out normal regularly working hours.
 - 2.1.3. Management may deduct a day's reckonable service towards pension
 - 2.1.4. A days accrual of leave may be deducted

3. Withholding Pay – Action Short of a Strike (Partial Performance)

- 3.1. In the case of action short of a strike, the University has the option to:
 - Accept the partial performance; or
 - Reject the partial performance while keeping the contract alive but withhold pay.
- 3.2. In relation to a particular dispute, the University will make it clear in advance whether it will accept or reject the partial performance. The University will normally reject partial performance and this will normally result in the withholding of pay. In the case of partial performance by an employee, any work done will normally be treated as voluntary and not paid for. It is within the University's legal rights to withhold 100% of pay for partial performance and this reflects common employment practice across both the private and public sectors.

- 3.3. Partial performance normally begins from the time a particular contractual duty is not performed by an individual and ends when the employee resumes normal working and this will be the period for withholding of pay. Work delivered after a due date or set deadline will not be accepted as performance.
- 3.4. Where the duty withheld is visible and time bound or where the effect is minimal or of a low intensity rather than material, it is possible that the University may (without prejudice) decide to withhold only a proportion of the employee's pay. In that event, the chosen proportion remains at the University's discretion and may be altered from time to time (including during ongoing partial performance) in the circumstances of the case. Where the period of time taken up by the contractual duty or the performance of the duty itself is by its nature hidden or unclear this kind of partial performance is likely to result in the withholding of full pay.
- 3.5. The University will deduct pay for each day of partial performance at all (or a proportion) of 1/365th of the staff member's annual salary for Levels 4 and above and 1/260th of the staff member's annual salary for Levels 3 and below.

4. Pensions

- 4.1 In cases of a strike (or action short of a strike) where a whole's day's pay is withheld, this may lead to a loss of pensionable service for each day of the strike. This means that the University is not obliged to pay pension contributions where pay is withheld for participating in a strike of one or more days' duration. For each instance, the University will exercise its discretion whether to apply one of the following options (and notify employees in advance of the action):
- The employee can choose to pay both the University and employee contributions for each day of action, but they must notify this to the employer before the action takes place. This will mean that the day(s) of industrial action will count towards pensionable service.
 - Alternatively, the employee can elect not to make up the University and employee contributions for each day of action – in which case the day(s) of industrial action will not count towards pensionable service – but they can choose to pay a charge for maintaining their death in service benefits (this only applies to members of USS and not PASNAS). Again, they must notify the University of this choice before the industrial action commences.
 - The University may continue to make its employer contribution and the employee will continue to make his/her contribution. This will mean that the period of the strike will continue to count as pensionable service.

5. Withheld Pay

- 4.1. The University will not normally restore pay to staff who have taken part in industrial action, whether as part of a settlement or not. Withheld pay may be:
- Used to offset the costs of the effects of the action taken; or
 - Used to offset the costs incurred in mitigating the impact of the dispute; or
 - Used to meet legal costs; or
 - Paid into a staff or student hardship or benefits fund.

RESPONSIBILITIES

Deans / Directors of Professional Service

- The co-operation of Deans and Directors (and their nominees) is crucial to the University being able to manage the action effectively. Deans or Directors (or their nominees), who are also Trade Union members and who refuse to cooperate in managing the effects of any industrial action may be removed from the office, where it is not their substantive role, either permanently or for the period of the dispute. Where the management role is held substantively, they will be treated the same as other staff participating in the action and pay will be withheld as appropriate.

Employee

- Staff are legally required to inform the University if they participate in industrial action. This should ideally be done by emailing their line manager once they are participating in the action, or as soon as reasonably possible.
- Staff are not legally required to inform their employer that they intend to participate in industrial action, however, the University is entitled to make reasonable enquiries in order to prepare for industrial action and maintain business operations.

VERSION CONTROL

Last updated:	29 January 2018		
Consulted:	SLT IAPG Legal Services UEB	Date consulted:	06 February 2018 06 February 2018 07 February 2018 09 February 2018
Date to JJNC:	N/a	Date approved:	N/a
E&D Assessment:	Yes	Date assessed:	13 February 2018
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