

Thursday 15th February 2018

Dear colleague

UCU has notified the University that it is calling on its members to take industrial action in support of its dispute over proposed changes to the USS pension scheme. The notification of action follows a UCU ballot which closed on Friday 19th January 2018.

It is incumbent upon me to advise you of the legal position relating to the proposed action. This means regrettably that this letter has to be fairly technical and lengthy to ensure all the relevant points are covered.

You will appreciate that the University does not know which colleagues are members of UCU, and so it is necessary for us to write to all staff in academic and academic-related (professional and managerial) roles. I recognise that it is an individual decision as to whether to participate in the action, and I appreciate that it may be your intention to work normally on all of these days. In such circumstances, and for the avoidance of any doubt, if you do not wish to participate in this action you should attend work normally, ignore the contents of this letter, and accept my apologies for having to write to you on this matter.

1. Introduction

UCU is calling on its members to take both strike action and action short of a strike. The strike action is to consist initially of 14 days of strike action on the following dates:

- Week 1 Thursday 22nd and Friday 23rd February
- Week 2 Monday 26th, Tuesday 27th and Wednesday 28th February
- Week 3 Monday 5th, Tuesday 6th, Wednesday 7th and Thursday 8th March
- Week 4 Monday 12th, Tuesday 13th, Wednesday 14th, Thursday 15th and Friday 16th March

UCU is also asking its members to start continuous action short of a strike, in the following forms:

- Working to contract
- Not undertaking voluntary duties
- Not covering for absent colleagues (unless this is a contractual requirement)
- Not rescheduling lectures or classes cancelled due to strike action.

The continuous action short of a strike (ASOS) is expected to start from Thursday 22nd February 2018.

If you are not taking part in strike action and do not have previously agreed holiday arrangements it is expected that you will attend work on each day of action. If you have agreed other prior arrangements that mean you are working away from the campus you should discuss with your Head of School or Service¹ whether it is appropriate for these to continue.

¹ All references to Head of School or Service also encompass Head of Division or Institute or, in the absence of the aforementioned, the relevant Faculty Dean or UEG lead.

2. Strike action notification

Whilst we realise that many staff will not take part in the strike action, in order that we can plan properly and safely, we are asking you to advise us in advance if you do intend to take part in any of the fourteen strike dates notified by UCU (listed above). Heads of School or Service will also be keeping track of the extent and impact of the action.

If you are taking part in strike action you should notify the University by completing the online form which is accessible via the Employee Self Service (ESS) link [here](#). For part time staff you will be asked to confirm the number of hours you would have been scheduled to work on the day(s) in question had you not taken strike action.

You should use this form to notify us in advance or on your first day back immediately following any day of action.

The latest you can declare your participation is:

- by 2pm on Thursday 1st March for any February strike days;
- by 2pm on Friday 9th March for strike action taken between Monday 5th and Thursday 8th March;
- by 2pm on Monday 19th March for strike action taken between Monday 12th and Friday 16th March.

Should you take part in strike action we will withhold a day's pay for each day of action in which you participate. We will do this where you have declared participation and also where you do not declare and we subsequently have evidence that you participated. We will treat the calculation of a day's pay as either 1/365th of annual salary for full time employees, or the actual hours you are contracted to work on each day of participation for part-time employees.

If you have difficulty accessing the link or completing the online form, please email industrialaction@leeds.ac.uk immediately to ensure that you can declare within the timescales outlined above.

If you do not intend to take part in the strike action, you do not need to complete this form.

It will not be possible to administer adjustments to pay before the February payroll deadline. Therefore, we expect that all deductions, whether for strike action taken in February or March, will be deducted from your March salary.

The withholding of pay is without prejudice to any other right or remedy of the University, including any claim for damages for breach of contract.

3. Impact on pension benefits

Taking part in strike action could affect your pension benefits. Arrangements have been made to ensure that death in service and incapacity cover remain in place for USS members taking strike action and ASOS, even where full contributions are not being maintained.

Although we are not obliged to pay employer contributions for any day during which a member of staff is participating in strike action, if you wish to pay your normal *employee* contributions throughout the period of action we will maintain our normal *employer* contributions.

If you intend to take strike action and want to maintain your pension contributions, you need to cut and paste the wording attached as Appendix 1 and return it to Nicola Waite, Pensions Administrator, by emailing pensions@adm.leeds.ac.uk **no later than noon on Wednesday 21st February**. This is to enable the necessary administration to adjust your contributions. If you do not notify us by this date, contributions will not be made in respect of days on which you are on strike.

4. Action short of a strike (ASOS)

UCU's proposals for action short of a strike are as follows:

- Working to contract
- Not undertaking voluntary duties
- Not covering for absent colleagues (unless this is a contractual requirement)
- Not rescheduling lectures or classes cancelled due to strike action.

As this includes asking their members to 'work to contract', I would like to clarify that the contractual duties of staff cover what is in their contracts of employment and related documents, the customary ways in which people have worked in their schools or services and the implied duties that both they and employers have.

This will include the terms outlined above as well as terms that may have been implied through custom and practice, and the duties of cooperation and faithful service that are implied in all contracts. You are also expected to perform your duties in an efficient manner, without seeking to disrupt the University. Our expectation is that members of staff will therefore continue to work normally and efficiently including the duty to comply with reasonable management instructions.

'Working to contract' or not undertaking voluntary duties would not normally give rise to a breach of contract. However, not rescheduling lectures or classes cancelled due to strike action and not covering for absent colleagues would. A breach of contract will give rise to partial performance and I therefore need to reiterate that the University does not accept partial performance and all staff are expected to perform their duties in full.

If you participate in action that results in breach of contract you forfeit any right to be paid at all for any work carried out whether in the University, at home or elsewhere, and we are entitled to withhold your pay in full. However, on a voluntary and *ex gratia* basis, we will pay 75% of a day's pay (your daily rate is calculated as 1/365th of your annual salary for full time staff, or the actual hours you are contracted to work on each day for part-time staff) should you decide to voluntarily carry out your duties that are not affected by the action short of a strike. This payment would be without prejudice to our right to withhold your pay in full. We will continue to review the impact of the action and reserve the right to increase deductions for partial performance up to 100%. We would provide notice of our intention to change the rate of deductions.

Any pay already withheld for partial performance will not be reinstated once you resume your full contractual duties.

5. ASOS related notifications

So that we can monitor the impact of the action and take steps to mitigate any impact on our students and on wider University activities, you are required to confirm if you will be participating in the action short of a strike. You can do this by completing the online form which is accessible via the Employee Self Service (ESS) link [here](#).

As ASOS is continuous you are only required to indicate the date you begin action. However, for practical purposes, if you choose to take part in strike action then the effect will be that your participation in ASOS will only occur on the days you are not on strike.

If, at a later stage, you decide to change your position regarding your involvement in the action short of a strike, you should notify your Head of School or Service immediately in writing, copying in your HR Manager. Once we have assured ourselves that you have returned to completing your full contractual responsibilities, your pay deductions will cease.

- Rearranging teaching events cancelled as a result of strike action
As outlined in the enclosed letter from Tom Ward it is your responsibility to find a way to deliver missed teaching events, thereby ensuring students are not disadvantaged. **You should write to your Head of School or Service on the day immediately following your participation in strike action, with your commitment and plans to recover the missed teaching, or a clear statement that you will not recover missed teaching.**

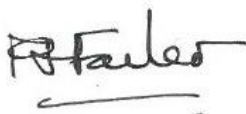
If you do not recover missed teaching your pay will be adjusted with effect from the first day immediately following your participation in that period of strike action. This will continue until you notify and assure us that you have ceased to participate, or the UCU confirm that the action is discontinued, and the University will adjust your pay accordingly.

- Other breaches of contract arising as a result of ASOS
If you breach your contract through, for example, refusing to cover for absent colleagues, the University will adjust your pay accordingly in line with the position outlined in section 4 for the days that you provide partial performance.

Once again, if you have decided to work normally I apologise for having to write to you in this way. However, the actions of UCU require us to make plans to mitigate any impact on students and to ensure that we have fully communicated the University's position to all staff, and we hope that you will understand why it is necessary.

If you have any queries relating to this letter, please contact your Faculty or Service HR Manager.

Yours sincerely



Francesca Fowler
Director of Human Resources

Appendix 1

To confirm that you wish to maintain your normal pension contributions during strike action, and for the University to make its normal employer contributions, please cut and paste the following statement, insert your name, school/service and payroll number, and send it by email to Nicola Waite, Pensions Administrator, at pensions@adm.leeds.ac.uk by no later than noon on the 21st February 2018. Please note that 'normal contributions' will include any added year AVCs and 1% match contributions.

Statement:

Dear Nicola

I confirm that I have recorded via the Employee Self Service (ESS) form the days that I will be taking industrial action.

I wish to maintain my normal employee contributions throughout the period of industrial action and understand the University will maintain its normal employer contributions during this period.

Name:

School/Institute/Division or Service:

Payroll Number: