

# **OUR PEOPLE PRACTICES/ POLICY ON PAY RELATED TO INDUSTRIAL ACTION**

## **1. Introduction**

This policy sets out the University position with regard to pay and related matters in relation to those staff who participate in the industrial action.

The University does not accept the partial performance of the contract of employment of any member of staff. This means that any member of staff taking part in strike action will not be entitled to full contractual pay for the days on which they take strike action.

## **2. Strike action**

### **2.1 Full-time substantive staff**

Where a full-time substantive member of staff chooses to participate in the planned strike action, the resulting breach of contract will lead the University to withhold 100% of pay for each day of strike action at a daily rate of 1/365th of annual salary. These deductions will be made for any strike action taken.

### **2.2 Part-time substantive staff**

Part-time salaried staff who participate in strike action will have their pay withheld in the same way as for full-time staff, ie 100% of pay for each day of strike action at a daily rate of 1/365th of annual salary. However, for part-time staff who have a formally-agreed working pattern in which working hours are unevenly spread across their working days, the pay deduction may be pro-rated based on the actual hours they were due to work on each strike day subject to submission of a declaration of hours form and confirmation by the relevant line manager or senior manager.

### **2.3 Graduate Teaching Assistants (GTAs) and Graduate Secondary Teaching Students (GSTSs)**

In recognition of their unique scholarship status within the University, there will be no deduction of pay for GTAs or GSTSs who participate in strike action.

### **2.4 Timesheet and other hourly-paid staff**

Timesheet and hourly-paid staff who refuse an offer of work on strike days that is a part of their planned schedule of work will have that offer counted against their Guaranteed Minimum Hours where these are a part of their terms of engagement, and should not submit a claim for the hours to be paid. However, claims may still be submitted for the associated preparation and marking in accordance with the relevant payments menu where work has been carried out.

## **3. Action short of a strike (ASOS)**

ASOS can take many forms such as working to contract, not covering for absent colleagues and not rescheduling lectures or classes cancelled due to strike action. The University formally rejects the partial performance of the employment contract that may result from staff participating in ASOS and reserves the right to withhold up to 100% of pay.

In the period of ASOS declared by UCU between 20 April 2023 and 19 October 2023, ASOS will take the form of UCU members taking continuous action short of a strike consisting of: working to contract; not undertaking any voluntary activities; not covering for absent colleagues; removing uploaded materials related to, and/or not sharing materials related to, lectures or classes that will be or have been cancelled as a result of strike action; not rescheduling lectures or classes cancelled due to strike action; and undertaking a marking and assessment boycott.

Marking and assessment activities are a key requirement of the delivery of education to our students and a refusal to complete such tasks is likely to have a significant impact on our students. It is the University's duty to ensure students' education is not unduly disrupted by industrial action and so it is reasonable that pay should be withheld from anyone who participates in the boycott. The University has consistently rejected partial performance of the employment contract and so the appropriate deduction for the marking and assessment boycott would be 100% of pay. However, whilst continuing to reserve the right to deduct 100%, the University will instead make an effective deduction of 50% of pay for every calendar day of participation in the boycott (this will be via a 100% deduction partly offset by a 50% ex gratia payment for other duties carried out on a voluntary basis during the period). For salaried staff, deductions will be on the basis of 1/365<sup>th</sup> of annual salary for each day of participation in the boycott. In keeping with the University's approach to strike pay deductions for GTAs, there will be no deduction for GTAs participating in the MAB.

For the other forms of ASOS it has been decided that no deductions will be made for the time being. However, the University will ask managers to record and assess the impact on students and, in particular, whether it would be possible to mitigate the impact of any ASOS in a reasonable period of time and may, as a result of such assessments, revisit the decision not to make deductions in respect of ASOS and may decide instead to withhold up to 100% of pay for each day of ASOS. If the University's policy does have to change, staff will be given notice prior to any change being made.

#### **4. Process for declaring participation in industrial action**

In order that the impact on pay can be managed efficiently and with minimal need to recover pay at a later date, and so that the impact of the industrial action on our students and the institution as a whole can be assessed, any member of staff who intends to participate in the industrial action is asked to declare their participation both in strike action and in ASOS.

Declarations of participation in strike action should be made by recording the strike days in the Staff Connect Absence screen, using the absence type Industrial Action (IA).

Declarations of participation in ASOS should be made by completing the relevant form (opt-in).

Recognising the impact of the marking and assessment boycott, there may be a presumption of participation in some divisions, with staff being asked to confirm that they are not participating in the MAB (opt-out).

Divisions and departments will be asked to check the information provided is complete and, where there are any anomalies, to use other readily available mechanisms to identify participants in order to ensure correct pay deductions can be made and that accurate records are maintained.

## **5. Timing of deductions**

Pay for strike days recorded in Staff Connect will be deducted in the next available payroll, which may be the following month's payroll.

## **6. Pension contributions, pensionable service and life assurance**

The University is not obliged to make employer contributions to pension during industrial action when full pay is not being paid. However, the University has decided to maintain both employee and employer pension contributions<sup>1</sup> based on normal full contractual and pensionable pay.

The maintenance of contributions by the University is unconditional although staff will need to give consent to the University making employee contributions on their behalf by recording participation via Staff Connect. In order to facilitate timely communication and support for our students, it is requested that declarations for strike participation are made in a timely manner, preferably not later than the earliest opportunity on return to work following strike action. Where participation in industrial action has not been recorded in a timely fashion (ordinarily judged to be no later than the second available payroll), then the University will proceed on the basis that consent is not given.

In the event that consent is not given, then Death in Service cover will be maintained<sup>2</sup> by the pension scheme and employees may make up the missed contributions at a later date in order to maintain pensionable service.

Hourly-paid staff who are participating in the strike action but want the University to maintain their pension contributions on their behalf will need to submit a declaration of hours form detailing the hours they would have worked on each strike day. This should be submitted to the Division or department, who will then authorise and pass the information to Payroll<sup>3</sup>.

Where pay is withheld as a result of ASOS, then pension contributions will be maintained.

## **7. Queries**

For further information about this policy and industrial action more generally, please visit the [dedicated pages](#) on the Kent Staff Guide.

## **8. Review**

This policy will be kept under review depending on operational circumstances.

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<sup>1</sup> Where staff are making contributions to the USS Defined Contribution Scheme, these will not be maintained, although this is subject to confirmation from USS. This policy will be updated once the position is clear.

<sup>2</sup> This was the position in previous periods of industrial action and we are waiting for confirmation from USS as to whether or not the same will apply. This policy will be updated once known

<sup>3</sup> For technical reasons, individuals wishing to make up their employee pension contributions will need to notify [pensions@kent.ac.uk](mailto:pensions@kent.ac.uk) before the payroll cut-off date for the month following the month in which the relevant strike action took place.