

Industrial Action: frequently asked questions (FAQs) for staff and managers

This guidance provides updated information for staff about the strike action that was announced on 6 September 2023 by the Universities and Colleges Union (UCU) regarding the New Joint Negotiating Committee for Higher Education Staff (JNCHES) 2022-23 pay dispute. Staff and managers should speak with their HR Partner if they have a question about the strike action that is not addressed here.

When will the strike action take place?

Strike action has been announced by UCU to take place from 25 to 29 September 2023 inclusive.

In addition, UCU continues to call on its members to take 'action short of a strike' (see below: **'What does action short of a strike mean?'**). This includes one or more of the following elements:

- Only working contracted hours and duties and not volunteering to do more
- Not rescheduling classes and lectures cancelled due to strike action
- 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.

These actions will continue until 30 September 2023 or until the disputes have been resolved (whichever is earlier).

What is the strike about?

The strike action is the outcome of an aggregate ballot in respect of the New JNCHES 2022-23 pay dispute by the Universities and Colleges Union (UCU), the results of which were made available in April 2023. The ballot resulted in UCU having a mandate for industrial action until 30 September 2023.

What is happening with the Universities Superannuation Scheme (USS) pension?

Whilst UCU also secured a mandate for industrial action on the USS dispute, the action that is due to be taken in September is in relation to pay only.

On the Universities Superannuation Scheme (USS) pension, a consultation will be launching on 25 September, in respect of proposed improvements to benefits. Staff will be able to find out more about this on the [Pensions website](#) closer to the time.

What is the situation with the marking and assessment boycott?

UCU called an end to the marking and assessment boycott on 6 September 2023. All staff who participated in the boycott should submit any outstanding examination and assessment marks by 2 October 2023 following which, as the result of an agreement with the local UCU branch, they will be reimbursed two-thirds (67%) of the amount of pay withheld for the

relevant days in June, July and August. Reimbursement will be made as soon as is practically possible in October, subject to all marks being submitted.

Where marks are not submitted and there are no valid exceptional circumstances to account for this (such as staff illness), usual School policies will apply and disciplinary procedures will need to be commenced.

What will happen after the mandate expires on 30 September 2023?

On 11 September, UCU notified employers of its intention to conduct a further ballot amongst its members in relation to the New JNCHES 2023-24 pay dispute. This is expected to open on 19 September 2023 and close on 3 November 2023. Further details will be shared once the results have been received.

What does 'action short of a strike' mean?

'Action short of a strike' means that individuals taking part will work normally, apart from the duties that the union is asking its members to refuse to undertake.

UCU has advised that in the context of this dispute, taking action short of a strike will consist of its members:

- Only working their contractual hours
- Only undertaking their contractual duties
- Not volunteering to do more beyond this
- Not covering for absent colleagues
- Not rescheduling classes and lectures cancelled due to strike action
- 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.

Staff should ensure that they do not refrain from undertaking any contractual duties as a misinterpretation of 'working to contract'. This will amount to partial performance, which may result in deduction of salary.

What is the difference between 'working to contract' and 'partial performance'?

'Working to contract' or 'work to rule' is where employees work strictly to their employment contracts, such as agreed working hours, and withdrawing their labour from any work that may be undertaken as a 'voluntary' part of their role.

'Partial performance' is where an employee is willing to undertake some of their duties but refuses to carry out others.

Partial performance in the context of this strike could be:

- Refusing to cover for absent colleagues where this is contractual, and / or
- Refusing to carry out marking duties following examinations / assessments.

As with strike action, partial performance is a breach of contract and LSE has the discretion to withhold up to and including a full day's pay per day of partial performance.

Who do I need to tell if I wish to take part in the industrial action?

If you wish to take part in the strike action and / or action short of a strike, you **must** complete the online pro-forma. Once submitted, this will be sent directly to the Payroll team in Finance Division for the purpose of making deductions. Information provided in the form will be forwarded to HR and your Head of Department/Service Leader/Centre Director/Institute Director.

LSE asks that you provide notification at the earliest opportunity, but you are not obliged to do so in advance of the strike days. **However, you are obliged to declare having taken industrial action immediately afterwards each period of continuous strike action and must not take strike action without notifying LSE.** Completed self-declaration forms should be submitted no later than 24 hours following the conclusion of each period of strike action and / or the commencement of action short of a strike where relevant. You should submit a separate self-declaration form for each period of continuous strike action; each separate form is available on the [website](#).

If you're also a line manager, you should also take some additional actions – see **I'm a line manager – what happens if I'm on strike myself?** for further details.

Will I lose pay if I take part?

In determining LSE's response to strike action and action short of a strike, consideration is given to the likely impact, based on timing and duration.

Staff who self-declare, or are reasonably believed to have taken part in strike action, will have pay deducted at the rate of 1/365 of annual salary per day. For staff on hourly paid contracts, pay will be withheld on the basis of the number of hours that the individual was due to work on the day of action.

In terms of action short of a strike, LSE's position is that it does not accept partial performance of duties and reserves the right to deduct pay as a result of the breach of contract.

Staff participating in action short of a strike should be judicious in ensuring that work that is reasonably expected of them is undertaken. They should be aware that a failure to do so will result in a loss of up to and including one day's pay per day of partial performance.

What is included in my daily pay rate deduction?

All contractual elements of your daily pay will be used to calculate the deduction rate for each day. This includes salary supplements, responsibility allowances and honoraria payments.

When will my pay be deducted from my salary?

Once a completed pro forma has been submitted to Payroll, pay will be deducted at the next available opportunity and will be detailed in your payslip.

If you have been on strike and do not see any deductions made, please contact Payroll at fin.div.payroll@lse.ac.uk to check that they have received your form.

What happens to my pension payments if I take part?

LSE will not pay employer pension contributions, nor deduct an employee's pension contribution, for days on which employees are participating in industrial action. This means that full pension membership will not be maintained during such a period. Individuals will remain fully covered for death in service benefits and incapacity benefits providing they are not absent for a total period exceeding 31 days.

If an individual instructs LSE in writing, prior to the start of any industrial action commencing, that they wish to maintain the period as fully pensionable, then LSE will deduct contributions from an employee's pay equivalent to the combined employee and employer's contribution due for each day of strike action. Employees should contact the Pensions Team at hr.pensions@lse.ac.uk if they require further information.

As an academic member of staff, I have teaching on the days of the strike action – will I be required to rearrange this?

If you decide to take part in the strike action, LSE may ask you to reschedule any work missed for days on which you are not on strike, including teaching duties.

How do I cancel office hours on the Hub?

Where possible, staff who are taking part in strike action should cancel scheduled office hours in advance. For information on how to do this, see [how to cancel office hours on Student Hub](#).

I'm a manager - am I required to reschedule operational meetings and events if I am aware that some of my staff will be on strike?

You should continue to operate as normally as possible during the period of the strike action and are not required to reschedule activities as a result of this. Because of the extended duration of the strike, it is likely to be operationally difficult to put alternative plans in place, although it is recognised that, in some cases, it may be practically unrealistic to continue with normal activity. Bear in mind that some staff may not wish to cross the picket line and, therefore, it may help to increase attendance if you hold meetings remotely or hybrid. Please note that UCU have advised members who wish to take part in strike action not to notify the employer in advance.

I have a meeting that requires a certain level of attendance for decisions to be made. Should I continue with this?

Given the extended duration of the strike, you are advised to continue with meetings wherever possible. Levels of attendance should be noted in any record of the meeting and alternative means of considering items in which decisions are required should be used, e.g., by email correspondence.

As a manager, can I ask my staff whether or not they will be participating in strike action? If not, how can I cover work?

You are entitled to ask staff if they intend to participate in strike action, although there is no obligation for a member of staff to inform you before industrial action takes place. In making such enquiries, however, you should ensure that you do not make assumptions about an individual's union membership.

LSE does require employees to self-declare that they have taken part in industrial action no later than 24 hours after i) the end of strike activity or ii) the start of action short of a strike. Where any action combines both, employees should notify LSE at the earliest opportunity following commencement of industrial action. Where this falls on a weekend, the form should be submitted no later than the end of the following Monday.

UCU has advised its members to confirm their participation after the strike day but not to inform LSE of their intentions before the strikes take place. Please see the section below for further advice on covering work: **As a manager, how can I arrange cover for work not completed by those taking part in strike action?**

How will LSE maintain records of staff participating (or ceasing to participate) in strike action?

LSE will collate completed pro-formas from staff confirming their participation in the strike action. At the same time, it is possible that not everyone taking part in the strike action will report their participation via a pro-forma, so it is also important that line managers keep a local record of participation in the strike action and any participation that amounts to partial performance, such as:

- Not covering for absent colleagues (where this is a contractual requirement)
- Not carrying out marking duties following examinations / assessments
- Not undertaking any other duties that are contractual as a misinterpretation of 'working to contract'.

Heads of department, service leaders, centre directors and institute directors will collate this information and send these to HR.

Records of staff participating in strike action will be held for one year from the last date of strike action. At the end of that period, the form will be deleted.

Central checks around campus may also be carried out in order to ascertain the impact of the industrial action on our students.

I am sponsored by LSE on a visa – will taking part in strike action affect my status?

For the purpose of sponsorship, taking strike action is a permitted absence under the sponsorship rules, however any changes to your salary during your period of sponsorship must be reported to the Home Office. This means that if taking strike action significantly reduces your salary then the School will report the change to the Home Office after the deduction has been made.

I don't wish to take part in the strike action – can I instead request to work / teach remotely or take annual leave on one or more of the strike days?

While staff can request to work / teach remotely or take annual leave on a planned strike day, LSE has a duty to ensure that adequate cover is available to mitigate the impact of the strike action on students and the wider institution. As such, annual leave requests will only be agreed in exceptional circumstances.

Where employees regularly work remotely, they should agree with their manager whether they will be required to work / teach on campus on the days during which industrial action is

taking place. This will be decided based on operational requirements and in line with normal practice. Exceptional requests to work remotely that are generated after the declaration of strike action or partial performance will not normally be granted.

I don't want to participate in strike action – can I come to work, or will I be prevented from crossing a picket line?

Staff taking industrial action may decide to stand outside School entrances to provide information to others about the reason for the strike – this is known as 'a picket line'. Peaceful picketing is allowable and whilst 'pickets' may try to persuade others to join in the strike, they must not prevent people from going to work or doing their usual work if they want to do so.

If you experience or witness any intimidation when coming onto campus, you should report this immediately to your Head of Department, Service Leader and/or HR Partner.

I don't want to strike, but I don't want to cross a picket line – can I work / teach remotely?

If your role allows, it may be possible for you to work / teach one or more days remotely subject to operational need. Please see the section above on **I don't wish to take part in the strike action – can I instead request to work / teach remotely or take annual leave on one or more of the strike days?** and speak to your line manager to agree whether you will be required to work on campus on the days during which industrial action is taking place.

Refusal to cross a picket line is not a legitimate reason for absence from work and will be considered as unauthorised absence. As such, if you are not permitted to work / teach remotely, your pay will be deducted for each day of absence.

Can staff take part in action short of a strike (ASOS) on non-strike days?

ASOS is part of the overall industrial action. LSE does not consider the current forms of ASOS to be a breach of the contract of employment, and therefore managers do not need to take any action beyond ensuring that operational efficiency is maintained as far as is practicable.

I'm a line manager – what happens if I'm on strike myself?

As a line manager, if you're planning to be on strike yourself then you have a responsibility to report your absence using the pro-forma, and also to ensure that someone else takes responsibility for monitoring non-attendance on each strike day and reporting this to HR. Please speak with your HR Partner if you are unsure.

As a manager, how can I arrange cover for work not completed by those taking part in strike action?

As a manager, you need to give careful consideration to whether any of the work that will be disrupted by the strike action is essential work that must be, or could be, covered by some other means.

One option is to reallocate work to staff not taking part in the action. While this does not present any contractual issues as such, staff who have decided not to take part in strike action should not be asked unreasonably to take on the duties of colleagues who choose to take industrial action, and nor should they be asked to undertake duties that they are not competent to perform. It's important that consideration is given to the appropriateness of the work in relation to the employee's duties, current workload, position and skills / qualifications, as well as how essential and/ or urgent the work is.

In some cases, the work may need to be covered through the use of additional staff, where this can be practically arranged. You may also wish to identify other staff who could potentially provide temporary cover, such as staff who have retired or staff working on a casual basis with the School.

You could also direct staff to prioritise certain work when they return to normal working following the strike action, such as to reschedule classes or lectures that had to be cancelled. Keep in mind that staff also taking part in UCU's 'action short of a strike' may refuse to reschedule cancelled classes, which UCU regards as legitimately falling within action short of strike – a view that is not shared by university employers. Where this is the case and the dates in question are not also days when the employee is on strike, additional pay (of up to, and including, a day per day of partial performance) may be withheld by LSE until the employee resumes normal working.

Can I claim back any pay that was withheld if I complete the work after the conclusion of the dispute or if the work has been completed by some other means (for example, by colleagues who didn't strike)?

No. LSE is not obliged to pay any amounts that have been withheld in such circumstances, and UCU does not expect the School to do so.