

## **Industrial Action: marking and assessment boycott - frequently asked questions (FAQs) for staff and managers**

This guidance provides information for staff related to the notification on 3 April 2023 of an extended mandate for industrial action (projected to extend until 30 September) and the notification on 5 April of a marking and assessment boycott effective from Thursday 20 April. Both notifications are outcomes of recent University and College Union (UCU) ballots regarding the New Joint Negotiating Committee for Higher Education Staff (JNCHES) 2022-23 pay and USS pension disputes. Staff and managers should speak with their HR Partner if they have a question about this form of industrial action that is not addressed here.

### **What is the marking and assessment boycott?**

The marking and assessment boycott covers all marking and assessment processes that contribute to summative assessment decisions for students – including undergraduates in the first and second years, finalists, postgraduate taught and research students. The boycott was included in the options for action short of a strike (ASOS) contained in the UCU ballot paper, the outcome of which was notified on 5 April 2023.

The boycott is live from Thursday 20 April, from which date UCU has asked members to cease undertaking all summative marking and associated assessment activities/duties. For LSE, the in-person Summer Term exams take place from Tuesday 9 May to 16 June 2023.

LSE considers that the marking and assessment boycott is a clear example of partial performance – this position is consistent with that of the Universities and Colleges Employers Association (UCEA) as well as other higher education institutes (HEIs).

### **How long will the marking and assessment boycott continue?**

The marking and assessment boycott begins on Thursday 20 April and is expected to carry on until:

- The disputes are settled, *or*
- UCU calls off the boycott, *or*
- The end of the current individual action ballot mandate (30 September 2023).

### **What type of work is covered by the boycott?**

The boycott covers all summative marking and assessment, including all assessed work (such as coursework, in-person or take-home exams, project assignments or other summative marking). The boycott also covers assessment-related protocols including exam invigilation, processing of marks, assessment-related administration (e.g. distribution of scripts and papers), and organisation, preparation and attendance at exams / assessment boards / meetings.

## **How does the boycott distinguish between teaching and assessment?**

UCU has asked members to distinguish between teaching (tutorial or practical) which is not part of the boycott and the act of assessment itself.

This means that:

- Courses should be taught and lectures / seminars delivered as normal
- Student attendance can be noted
- Coursework, where already set, can be collected.

Acts of assessment that are considered within the scope of the boycott include:

- Setting examinations or assessment questions
- Invigilating examinations
- Marking papers, essays or projects
- Moderating papers, essays or projects
- Providing information guidance / feedback to students concerning their likely marks, grade or assessed progress of summative assessments
- Processing marks, recording marks on paper, entering them into an online system, or communicating them to colleagues or students
- Attending or participating in any examiners' boards or related meetings.

## **How should I notify LSE that I am participating in the marking and assessment boycott?**

All staff who are taking part in the marking and assessment boycott are required to confirm their participation by completing and submitting the self-declaration pro-forma. Any dates of annual leave should be included in the declaration so that pay deductions are not made during that period.

Where a member of staff takes part in the boycott and does not complete the pro-forma, deductions will be made from 16 June 2023 until the date on which the situation is resolved. Please see section below on '**Will I lose pay if I take part?**'

## **How will LSE maintain records of staff participating (or ceasing to participate) in the marking and assessment boycott?**

LSE will collate all completed and received pro-formas, as well as records of staff who participated in the boycott but did not complete a pro-forma. These will be shared with limited and relevant staff, including HR and the relevant Head of Department/Service Leader/Centre Director/Institute Director for the purposes of carrying out necessary planning activities and making relevant salary deductions.

## **UCU are telling members not to complete the pro-forma – what should I do?**

LSE respects the right of staff to withhold labour and staff are not obliged to inform LSE in advance that they will be taking part in the boycott. However, once the boycott has started you should, when asked, inform LSE via the self-declaration form if you have already taken part in the boycott on any previous days and/or are doing so currently. This is in line with UCU's own guidance that members should declare to their employer any days of ASOS in which they have already participated or are currently participating in.

## **Will I lose pay if I take part?**

In determining LSE's response to the marking and assessment boycott, due consideration has been given to determining a proportionate response, taking into account the likely impact on students. LSE's position is that it does not accept partial performance of duties – including participation in the marking and assessment boycott – and, as there is no entitlement to pay in these circumstances - reserves the right to deduct pay as a result of the breach of contract.

Staff who self-declare their participation in the boycott, or who are reasonably believed to have taken part, will have pay deducted at the rate of 50% of their daily rate (based on 1/365 of annual salary) per day. Deductions will be applied from 16 June 2023 (the date of the last in-person Summer Term exam) and, during the relevant period, staff will be paid the remaining 50% of pay on an ex-gratia basis. (See section below on '**On what basis is my pay being deducted by 50%?**')

LSE will continue to monitor the ongoing impact of the boycott and reserves the right to deduct more than 50%, up to a maximum of 100%.

## **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?**

A 50 percent deduction in pay will be applied from 16 June 2023 if an individual does not submit their assessments and marks in line with departmental and School processes and deadlines, and / or has self-declared participation.

LSE will undertake a process of collating the pro-formas received as well as determining whether any staff participated in the boycott without submitting a declaration. Deductions will only take place after checking that there are no other reasons for non-submission (such as staff absence due to sickness), with this process commencing from 19 June.

All pay deductions resulting from the marking and assessment boycott will then be processed in line with LSE's payroll deadlines – at the time of writing, it is expected that deductions will commence in July's payroll and continue in subsequent months. Pay deductions will be backdated to 16 June 2023 and will be detailed on your payslip. No pay deductions for participation in the boycott will be made prior to that date.

If you participate in the boycott and do not see any deductions made on your payslip for July, please contact Payroll at [fin.div.payroll@lse.ac.uk](mailto:fin.div.payroll@lse.ac.uk) to check that they have received your form.

This will continue until assessments and marks are submitted, the dispute is resolved, or LSE determines that the assessments and marks are no longer needed. Deductions will only be made during the period of the mandate for the marking and assessment boycott.

*It is important that staff participating in the boycott are aware of the pay implications, since pay deductions will be made within the payroll in July and subsequent months.*

### **I am participating in the boycott - why is LSE deducting pay from 16 June?**

The date of the last in-person Summer Term exam at LSE is 16 June. From 19 June, a process will be undertaken to identify staff who participated in the boycott and who will therefore have pay deducted during the period of the boycott.

The marking and assessment boycott forms part of a collective UCU action and 16 June is the end date of LSE's collective Summer Term marking and assessment period. As such, whilst the boycott commenced on 20 April, as departments will have earlier and / or later marking deadlines, 16 June 2023 is the key date by which marking at LSE will be taking place. It is also recognised that a small number of staff may not be due to carry out any marking or assessments during the Summer Term examination period.

Pay deductions will end when marks are submitted, the dispute ends or LSE decides that they are no longer required.

### **On what basis is my pay being deducted by 50%?**

LSE is taking what it considers to be a proportionate approach in determining the level of pay deductions in relation to the boycott. LSE does not accept partial performance of duties and therefore pay deductions will be applied for staff who participate in the boycott.

It is important that staff understand that:

- By participating in the marking and assessment boycott, they will be deemed to be in breach of their contract
- LSE does not accept partial performance of duties, and there is no entitlement to be paid in these circumstances
- Payment of 50% is being made on an ex-gratia basis and may be subsequently withdrawn depending on impact.

### **What will LSE do with my pay deductions?**

In line with LSE's approach to previous periods of industrial action, all pay deductions for the marking and assessment boycott will be directed to benefitting students.

### **What will happen to my pay if I participate in the boycott but the dispute is withdrawn prior to 30 September (the end of the current mandate)?**

The marking and assessment boycott is expected to continue until:

- The disputes are settled, *or*
- UCU calls off the boycott, *or*
- The end of the current individual action ballot mandate.

LSE's principal concern is the impact of the boycott on students' ability to carry out their exams/assessments, receive their grades and progress into their next year of study or complete their studies at LSE and continue into employment, further education, or other activities. If the dispute is withdrawn, the nature of any pay deductions will depend upon the impact on students up to that point and this will be assessed from 19 June. No pay deductions made in relation to an individual's participation in the boycott will be reimbursed, nor will any pending deductions as a result of participation be stopped.

### **Is LSE deducting pay for participation in other forms of action short of a strike (ASOS)?**

This FAQ document applies to the marking and assessment boycott. LSE is not, at the time of writing, deducting pay for participation in other forms of action short of a strike though staff are required to confirm their participation in such action via the self-declaration form. LSE will keep this under review and reserves the right to withhold pay (up to and including 100% of pay) for any ASOS that constitutes partial performance.

### **What happens to my pension payments if I take part in the boycott?**

As with other forms of strike action, LSE will not pay employer pension contributions, nor deduct an employee's full pension contribution, for days on which employees are participating in the boycott. 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](mailto:hr.pensions@lse.ac.uk) if they require further information.

### **Can I claim back any pay that was withheld if I complete marking and/or assessment 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 participate)?**

No. LSE is not obliged to pay any amounts that have been withheld in such circumstances.

### **I am sponsored by LSE on a visa – will taking part in the marking and assessment boycott affect my status?**

For the purpose of sponsorship, taking strike action (including participating in the marking and assessment boycott) 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 part in the boycott, or any other strike action, significantly reduces your salary then LSE will report the change to the Home Office after the deduction has been made.

### **I'm a line manager – what happens if I'm taking part in the marking and assessment boycott myself?**

As a line manager, if you are taking part in the marking and assessment boycott then you have a responsibility to report using the pro-forma. Please speak with your HR Partner if you are unsure.

Managers who decline to provide relevant information in terms of making and assessment, will be deemed to be participating in the marking and assessment boycott and pay deductions of 50% of total salary will apply from 16 June 2023 onwards.

**As a manager, can I ask my staff whether or not they are participating in the marking and assessment boycott? If not, how can I cover work?**

You are entitled to ask staff if they have been, or are, participating in the marking and assessment boycott and staff are obliged to respond truthfully. As with other forms of strike action however, there is no obligation for a member of staff to inform you prior to them taking part in the boycott. In making such enquiries, you should ensure that you do not make assumptions about an individual's union membership.

LSE requires all staff who are participating in the marking and assessment boycott to confirm this by completing and submitting the pro-forma. Regular central communications will be sent to staff in May and June reminding them of the requirement, and beyond as required.

**I am aware that staff in my department will be taking part in the boycott. Should I continue with examination meetings?**

Given the expected duration of the boycott, you should continue with any meetings related to examinations wherever possible. Whilst it may be practically unrealistic to operate normally, attempts should be made to put alternative plans in place to ensure that these are able to continue.

**As a head of department, how can I arrange cover for marking and assessment work not completed by those taking part in the boycott?**

Heads of department are not being asked to reallocate work during the marking and assessment boycott and, therefore, you should carefully consider whether any marking and assessment work could be reallocated to staff not taking part in the boycott. While this does not present any contractual issues as such, staff who have decided not to take part in the boycott 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. Staff who are unable or unwilling to take on additional work created by the marking and assessment boycott will not be subject to pay deductions.

Heads of department who are themselves participating in the boycott are not required to reallocate work.

**As a head of department, what happens if I refuse to provide information on who in my department is / was due to undertake marking and assessment duties?**

Heads of department who, when requested, do not provide information as to who in their department is due to undertake marking and assessment will be considered to be participating in the boycott and their own pay will therefore be deducted.

**What happens if strike action is called while the boycott is on?**

In the event that strike action is called during the boycott period, UCU is advising members to withdraw all forms of labour on confirmed strike dates, not just marking and assessment activities.

**Who can I contact if I have specific queries?**

For questions about pay deductions, please contact the Payroll Team at [fin.div.payroll@lse.ac.uk](mailto:fin.div.payroll@lse.ac.uk). Employees should contact the Pensions Team at [hr.pensions@lse.ac.uk](mailto:hr.pensions@lse.ac.uk) if they require further information on pensions contributions during periods of industrial action.

For more general queries regarding the process and approach to pay deductions, please contact your HR Partner.