

Industrial Action Policy

Table of Contents

1. Context	p.01
2. Scope	p.01
3. Key Principles	p.01
4. Strike action and partial performance	p.01
5. Communication with staff	p.02
6. Annual leave during industrial action	p.02

Who can help?

- ☑ The Human Resources (HR) team can provide support and advice with the application of this policy and answer any questions that you may have.
HumanResources@napier.ac.uk
- ☑ If you are a member of the Educational Institute for Scotland (EIS) or UNISON, you can receive support and advice from a trade union representative.

Other Support

<https://www.gov.uk/industrial-action-strikes>

Please Note

This policy does not form part of your contract of employment with the University and may be subject to change.

1. Context

The University will seek to work with staff and their representatives to avoid wherever possible and/or minimise the incidents of industrial action and disputes.

However, we recognise that there may be exceptional occasions when staff elect to participate industrial action and this policy outlines the University's position in the event of industrial action being taken and covers both strike action and partial performance (action short of a strike).

2. Scope

This policy applies to all employees of the University.

3. Key Principles

Industrial action should be a last resort.

Official industrial action is protected, subject to certain rules, for unfair dismissal purposes. However, there is no obligation for the University to pay employees for work that has not been done or for partial performance.

Members of staff taking any form of industrial action are in breach of their contract of employment as they are not undertaking the work that they are paid to do.

4. Industrial Action

4.1 Strike action

A day's pay will be withheld for each day of strike action that an employee participates in.

A day's pay will be calculated on the basis of 1/365th of an employee's annual salary. In the case of part time staff, pay will be withheld on the basis of 1/365th of the employee's part time annual salary.

4.2 Action short of a strike (partial performance)

The University rejects the notion of action short of a strike or partial performance. Employees who refuse to undertake some or all of their contractual duties are in breach of their contracts of employment,

whether or not they are willing to perform some duties. In these circumstances the University will be entitled to withhold the pay of such employees as outlined below.

Employees are not entitled to choose which of their contractual duties they will undertake. If a staff member chooses to perform some of their duties, this partial performance will be voluntary. The University will neither be deemed to have accepted the partial performance nor be obliged to pay for it.

In the case of action short of a strike, the University shall be entitled to withhold pay wholly or in part depending on all the circumstances. The University reserves the right to reassess and modify its position as appropriate at any point during the industrial action. Staff will be notified of any change in the University's position as soon as reasonably practicable.

The withholding of pay is without prejudice to the University's right to change the amount of pay being withheld, or to pursue any other remedy of breach of contract against an employee.

5. Communication with staff

HR will write to all categories of staff potentially covered by the industrial action, advising that participation in industrial action is a breach of contract, and giving notice that pay will consequently be withheld and on what basis. This communication may be an intranet communication, a letter or an email.

Employees will be asked to confirm with HR whether they participated in the industrial action.

This information will be cross checked with departmental records and if any discrepancies arise these will be explored further to ensure that pay is being withheld appropriately and in line with policy.

The trades unions will usually advise on pension implications for employees participating in industrial action.

There is no obligation for the University to pay any sums withheld from an employee following the conclusion of industrial action, or confirmation from them that they are no longer taking part in industrial action.

6. Annual leave during industrial action

Annual leave will not be agreed at times that coincide with key industrial action dates, unless it has already been arranged or is requested for exceptional reasons. Exceptional reasons will be considered on a case by case basis.



If an employee has been identified as taking part in industrial action, but has already booked annual leave which coincides with the industrial action, they will be entitled to be paid at full pay for the period of authorised leave. In such cases, individual employees will be responsible for notifying HR who will seek confirmation from the relevant line manager.

Document Control

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