
MANAGEMENT OF INDUSTRIAL ACTION AND WITHHOLDING PAY

1. Introduction
The University prides itself on its record of establishing and supporting good employee relations both directly with its staff and by working in partnership with its recognised trade unions.

The University also recognises that there will be occasions where either local or national disputes may arise which may result in any of its recognised trade unions exercising its right to engage in industrial action. It is hoped, that as in the past, this would be a last resort and an extremely rare occurrence. Nothing in this policy is intended to indicate that the University anticipates that any of its recognised trade unions would wish to take industrial action.

Nevertheless it is important for the University to make clear, before any such action takes place, its position on the approach it will take in managing any form of industrial action. The policy is necessary to ensure that should action be taken, the University can protect its business viability and mitigate the risk it increasingly faces from student claims.

This policy covers official industrial action taken by employees in an industrial dispute involving a negotiation with a recognised trade union. It does not cover any action an employee may take as an individual, which is not in response to an official industrial dispute taken in support of their recognised trade union. The latter case would be covered by the University’s disciplinary procedures.

2. Policy Statement
The University understands that any form of industrial action taken by its employees is a breach of their employment contracts as they will not be doing the work they are paid to do. It also recognises that employees engaged in official industrial action are protected, subject to certain rules, against unfair dismissal, under the Employment Rights Act 1996 for a protected period, and thereafter, if there are selective dismissals. However there is no legal obligation for the University to pay employees for work that has not been done or for partial performance. The University in responding to protect the interests of its business and the impact on its students will consider the impact of any action. The following sections detail the likely approach that the University will take for certain types of action.

2.1 Strike Action
It is hoped that any dispute could be resolved without escalation to such action. Should employees who are members of a recognised union engage in full strike action, the University will seek to withhold a 1 day’s pay for each day of strike action taken, as it would be deemed to have a serious impact on the operation of the University. Withholding of pay is without prejudice to the right to change the amount

1 Calculated on the basis of 1/260th of an employee's salary.
of pay being withheld or any other claim for remedy for breach of contract being made against an employee.

2.2 Action Short of a Strike / Partial Performance

If an employee decides to take part in action short of a strike i.e. where they are willing to undertake some of their contractual duties but are refusing to undertake others, the University will reject any partial performance offered. Such partial performance of duties will be considered to be voluntary and will not be paid for. The University will withhold pay for each day that partial performance is undertaken. Withholding of pay is without prejudice to the right to change the amount of pay being withheld or any other claim for remedy for breach of contract being made against an employee.

The University reserves the right and at its discretion to, in certain circumstances, make a judgement on the likely impact of partial performance as low, medium and high and phase withholding of pay (on a sliding scale from 25% to 100% ) according to how it rates the partial performance. Indicative but not exhaustive examples of the type of performance that may be classified under these 3 categories are as follows:-

**Low / Medium Impact**
- Refusal to undertake general administration, where this is not a major part of the role
- Refusal to carry out research, where this is not a major part of the role
- Disruption of student services such as residential and catering services
- Refusal to take part in important management procedures e.g. appraisal and professional development planning

**High Impact – justifying 100% withholding of pay**
- Refusal to undertake duties to enrol students / collect fees where this is a significant part of the role
- Refusal to take classes, lectures and seminars
- Refusal to set examinations / assessments when required
- Refusal to undertake the marking of examination scripts / assessments and deliver marks by the required deadline
- Refusal to carry out assessment duties according to the approved timetable
- Refusal to carry out duties in relation to quality assurance procedures such as validations, QAA/OFSTED inspections and audits, where such procedure was imminent in the University’s calendar
- Refusal to undertake IT systems maintenance, etc
- Disruption to significant parts of the business e.g. Library services
- Action which places staff and students at risk e.g. disruption of security / building management or non co-operation with health and safety protocols and procedures.

In exercising this discretion the University may withhold pay over the whole period of continuous disruption, for as long as this disruption is made.

2.3 Identifying Employees taking part in Industrial Action
The University is entitled to know which employees are taking part in industrial action, where action takes the form of either strike action or action short of a strike. In order to establish this, should the University receive notification of such action taking place, it will write to all employees in the categories potentially covered by the industrial action in question reminding them that should they fail to undertake their full, normal duties due to participating in industrial action, they will be in breach of contract which will not be accepted by the University and pay will be consequently withheld. Employees will be required to declare whether or not they are taking part in industrial action by a set deadline and should no response be received from them, then the University will assume that they are taking part in the industrial action and pay will be withheld.

2.4 Return to Normal Working

Once a dispute has been resolved or confirmation from an employee that they are no longer taking part in industrial action, the University will start to pay employees their normal pay for their role. The University will not however, pay any sums withheld from an employee during the dispute.

“The University of Bolton is committed to the promotion of equality, diversity and a supportive environment for all members of our community. Our commitment to equality and diversity means that this policy has been screened in relation to the use of plain English, the promotion of the positive duty in relation to race, gender and disability and avoidance of discrimination to other equality groups related to age, sexual orientation, religion or belief or gender reassignment.”

3. Other Related Policies

3.1 Staff Disciplinary Procedure

4. Monitoring and Review

This policy will be reviewed annually or whenever enacted by the Vice Chancellor’s group and will be monitored by the Head of HR Strategy and Personnel on the occasions it is enacted and a reported will be submitted to the Vice Chancellor’s group.

5. Dissemination of and Access to the Policy

This policy will be made available to trade unions via the consultative committee and staff via their line managers and will also be published on the Personnel pages of the University’s website.

All University policies, once approved, will be held electronically in a document repository on the University intranet and a hard copy deposited in the Vice Chancellor’s Office. Copies of this policy will also be available in the Personnel Unit.
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