

To: All staff

From: executive.communications@durham.ac.uk <on behalf of Joanne Race>

Date: Monday 7 February 2022

Subject: Industrial action – important update

Dear Colleagues,

You will recall that UCU balloted their members for industrial action in November 2021. There are two separate disputes, one in relation to proposed changes to the USS pension scheme, and one in relation to national pay negotiations and associated issues.

It is with regret that I must update you on industrial action. I hope you appreciate that this is a national dispute that cannot be resolved by Durham University as a single employer. We appreciate that those colleagues engaged in industrial action will not have taken the decision to participate lightly. However, the University must take steps to mitigate the impact of planned action on students, other members of staff and the University. The University's response to the industrial action can be found at: durham.ac.uk/industrial-action.

The University has now been notified of further industrial action by UCU.

Strike Action

Strike action will take place on ten days:

- Monday 14 – Friday 18 February 2022 (inclusive) in respect of the USS pension dispute;
- Monday 21 and Tuesday 22 February 2022 in respect of both disputes; and
- Monday 28 February, Tuesday 1 and Wednesday 2 March 2022 in respect of the USS pension dispute.

Securing the learning outcomes of our students is the University's priority. Where staff have been engaged in strike action, we ask that they prioritise teaching activity, taking into account our [Mitigation Policy](#), such as ensuring that materials are available for students, as soon as possible when they return from strike action.

Action Short of a Strike (ASOS)

ASOS started on 1 December 2021 and may continue until no later than 3 May 2022. UCU have informed the University that ASOS will:

“consist of our members only working their 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”.

It is at the discretion of staff engaging in industrial action if they wish to engage in any, some or all forms of ASOS.

The University's primary responsibility is education, including access to learning opportunities and delivery of the learning outcomes of our students. We expect that the most significant impact on students will arise from *“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”*. The University is particularly mindful that students may require materials over the Easter vacation period.

The University expects that materials will be available to students once a member of staff has ended their participation in strike action and no later than Monday 7 March 2022.

The University's approach to strike action and pay deductions

The University is required to set out, in advance, its position on pay deductions in relation to strike action and ASOS. Recognising that the nature and impact of industrial action may change over the course of a dispute, the University position is as follows:

- Where strike action is taken by an individual the University will deduct pay on the basis of 1/365th for each day of strike action. Pay will normally be deducted on the same month as strike action or the next available payroll date (depending on payroll deadlines). We anticipate that pay deductions for this current round of strike action will be made in the March payroll.
- The University does not accept partial performance of duties by any member of staff. This means that if you take part in strike action and/or ASOS, including refusing to carry out any part of your normal contractual duties, you will be in breach of your contract of employment, and the University is entitled as a consequence to make a deduction to contractual pay of up to 100% for each day of no or partial performance.
- The University reserves the right to determine the exact timing and proportion of pay deduction for ASOS, noting also that this may change over time. While the University may not immediately deduct salary for some forms of ASOS, this is without prejudice to the right to change the amount of pay being withheld and we retain the right to withhold up to 100% of salary where ASOS is considered to constitute a breach of contract.
- The University is particularly concerned about the impact on students not being able to access materials related to lectures or classes that will be or have been cancelled as a result of strike action. The University therefore requires that staff mitigate the impact of cancelled teaching, further examples of which are contained in the [Mitigations Policy](#). Materials need to be shared with students by no later than 7 March 2022. If they are not, the University intends to begin withholding pay, starting at a rate of 25%. The withholding of pay will continue until the member of staff makes material available and informs HR that they are no longer participating in this form of ASOS. The University reserves the right to withhold up to 100% of pay but will inform staff before increasing the amount of pay to be withheld.

Reporting strike action and ASOS

Strike

Staff participating in industrial action will be asked to access and complete a webform to record their strike action. A link to the webform will be available on the [Industrial Action webpage](#). The same webform link can be accessed as often as required to report strike action and the starting and stopping of ASOS.

The University considers that there are 2 periods of strike action:

- Period 1 is any strike action between 14 and 22 February 2022 (inclusive).
- Period 2 is any strike action between 28 February and 2 March 2022 (inclusive).

Where staff are participating in strike action, they should report their participation in each period of strike action. This means that where staff participate in both periods of strike action, they must make two webform submissions, reporting any strike action in each period. A completed webform must be submitted as soon as the member of staff returns to work, and no later than within 2 days of their final day of strike action in each period.

Staff participating in strike action will have their pay deducted for each day of strike action.

ASOS

Where staff are participating in ASOS which is “*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*” they are required to declare that they are participating in ASOS. Staff participating in other forms of ASOS but not the “removal of uploaded materials...” are **not** required to report their participation at this time.

Staff should declare their ASOS on their strike webform at the same time as they declare their strike action. If staff start their ASOS at a later date, they should report their participation when they start ASOS. Any previous declarations which staff made in December 2021 will be disregarded and a new declaration of ASOS must be made.

The University intends to withhold 25% of pay for ASOS in the form of “*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*”. This deduction will commence from 7 March 2022, which is the date by which the University expects materials to be uploaded/shared following strike action.

Staff declaring this form of ASOS will therefore receive 75% of their pay until such time as they upload/share materials and inform the University that they have stopped participating in ASOS. The University may increase the amount of pay which is withheld, but will inform staff before doing so.

Stopping ASOS

When staff stop participating in this form of ASOS they should access the webform and report that they have stopped participating in ASOS, along with the relevant date.

Pensions

Each webform will ask you whether you wish to maintain your employee pension contributions during any industrial action. Regardless of whether you maintain your pension contributions, there will be no impact on your USS life cover.

Thank you for your attention on this important matter. We would urge staff to read the [FAQs](#), which include information on reporting via the web forms and actions to take when returning from strike and ASOS.

You can stay up to date at durham.ac.uk/industrial-action and find out more about the key issues at our [Proposed USS Changes](#) and [Pay negotiation](#) webpages.

If you have any queries, please contact: strike.action@durham.ac.uk

Best wishes,

Joanne Race
Director of HR&OD