

# Industrial Action Guidelines

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## Introduction

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### 1. Purpose

- 1.1. These guidelines set out the arrangements that will be put in place across the University in the event of industrial action and help ensure it is handled fairly and consistently.

### 2. Scope

- 2.1. These guidelines apply to all University of Greenwich employees. They do not form part of an employees' terms and conditions of employment. The University may change them at its discretion.

### 3. Equality, Diversity and Inclusion Statement

- 3.1. The University values equality, diversity and inclusion and takes active steps to provide an inclusive environment for students, staff and visitors. The potential equality impact of the arrangements that will be put in place in the event of industrial action has been assessed.

## Definitions

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### 4. Strike Action

- 4.1. In law, a strike is defined as “any concerted stoppage of work” (Trade Union and Labour Relations (Consolidation) Act 1992) and “the cessation of work by a body of employed persons acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of employed persons to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any employed person or body of employed persons, or to aid other employees in compelling their employer or any employed person or body of employed persons, to accept or not to accept terms or conditions of or affecting employment” (Employment Rights Act 1996).

### 5. Action Short of Strike

- 5.1. Action short of a strike (ASOS) is other industrial action that is not a strike. The Trade Union and Labour Relations (Consolidation) Act 1992 states that, for the purpose of balloting, action short of a strike includes “an overtime ban and a call-out ban”. However, beyond this provision, the legislation does not define what amounts to action short of a strike. Examples of action short of strike may include working to contract, withdrawal of goodwill, overtime bans or a refusal to undertake specific duties.

## Responsibilities

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### 6. Vice Chancellor's Group

- 6.1. The Vice Chancellor's Group (VCG) is responsible for ensuring that:
  - Business contingency planning within the Faculties/Directorates is carried out to minimise the impact of industrial action.

- Necessary arrangements are put in place to maintain the health and safety of staff and students.

## **7. Faculty Operating Officers (FOO)/Directors**

7.1. Faculty/Directorate Representatives (or their nominated delegates) are responsible for:

- Collating the names of individuals who have participated in industrial action and for reporting the information to the People Directorate.

## **8. Line Managers**

8.1. Line managers in areas that may be affected or disrupted by industrial action, are expected to:

- Carry out any appropriate and reasonable action during a dispute as required by VCG.
- Be available on University premises during industrial action unless they are taking part in industrial action themselves, industrial action falls on a day they would ordinarily work from home, or there are genuine personal reasons for absence approved in advance by their manager.
- Ensure that employees are aware of these guidelines.
- Ensure that all statutory requirements relating to industrial action are adhered to, including the University's responsibility for health and safety of its employees and students who remain in the workplace.

## **9. Employees**

9.1. Employees are:

- Expected to attend/undertake work as normal if they are not taking part in industrial action.
- Encouraged to notify the University in advance if they intend to take part in industrial action.
- Required to notify the University whether or not they took part in strike action (there must be a positive confirmation one way or another).
- Expected to conduct themselves lawfully, in keeping with the University's policies and procedures, and as set out in these guidelines if they do take part in industrial action.

## **Employees who take part in Industrial Action**

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### **10. Notifying the University of intention to take part in industrial action**

- 10.1. Employees are not obliged to notify the University in advance if they intend to take strike action but are encouraged to do so in order to ensure that any implications for health, safety and welfare, and the wellbeing of the students can be considered.
- 10.2. Early notification will also help the University to distinguish between absence due to strike action, which has implications for pay and absence for any unrelated reason.

- 10.3. Faculty Operating Officers (FOO)/Directors (or their nominated delegate) will write to all staff in the categories identified in the notice of action to ask them to confirm whether or not they will be taking part in strike action. Correspondence will advise/remind staff of the University's policy on withholding pay for strike action.

## **11. Pay and Allowances**

- 11.1. Employees who take part in industrial action will not receive their normal pay for days absent through industrial action. For each day of strike action, pay will be withheld on the basis of 1/365th. Any regular allowances employees would have been paid for that day will be adjusted at the same rate as pay (i.e. 1/365<sup>th</sup>).

## **12. Pension**

- 12.1. Absence by members of the Teacher Pension Scheme due to industrial action involving whole days or part days will usually lead to a reduction of pension benefits which may be accrued.
- 12.2. Under Local Government Pension Scheme regulations (LPFA) absence of one or more whole days due to industrial action does not count as service for pension purposes.
- 12.3. It may be possible for employees who are members of the Local Government Pension Scheme (LPFA) to arrange pension contributions in respect of strike days – employees should contact LPFA for more information. However, there is no provision in the Teacher Pension Scheme for members to buy back strike days.

## **13. Picketing**

- 13.1. Picketing occurs when a group of people gathers outside a workplace to try and persuade others, such as non-strikers, substitute workers or suppliers, to take some form of industrial action. Picketing can only be undertaken by:
- A worker employed by the employer who is party to the dispute; or
  - By a worker who lost their job for a reason connected to the dispute (and has not since started a new job with a new employer); or
  - A trade union official picketing with the members they personally represents
- 13.2. Picketing must be only for the purpose of "peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working".
- 13.3. The "right" to picket is the right to attend "at or near" the picket's workplace. It does not entitle the picket to do anything on their employer's property.
- 13.4. There are strict rules governing the conduct of a picket and how many people can take part. In general, there should be no more than six people at any entrance or exit to the workplace.

13.5. If the pickets have an ulterior purpose (e.g. blocking the entrance to their employer's premises) then picketing will be unlawful. It is unlawful for pickets to:

- Use threatening or abusive behaviour to people walking past or crossing the picket line
- Block people or vehicles trying to get into the workplace which is on strike
- Carry weapons
- Damage property
- Cause or threaten to cause a 'breach of the peace'
- Try to block roads near the picket line

13.6. The trade union that is organising or encouraging members to take part in picketing must appoint a person to supervise the picketing. They must wear something readily identifying them as the picket supervisor.

13.7. Anyone who does not fall into one of the categories set out in 13.1 (e.g. a "supporter" of the picket), will not be picketing lawfully and will have no legal right to remain at or near the entrance/exit of the workplace. It is unlawful, therefore, for a trade union to induce or encourage students or others who are not party to a dispute to join a picket line.

13.8. Employees who intend to cross the picket line do not have to stop or take part in any conversation with them. Employees on a picket line are not permitted to physically stop employees entering the workplace or threatening or harassing employees.

13.9. Employees who choose not to cross a picket line may be considered as taking part in the industrial action and pay may be withheld as set out in paragraph 11.1. If the University believes that employees may be willing to cross picket lines but are reluctant to do so for fear of their safety, it will consider the protection given to employees crossing the picket line, or potentially allow them to work at another establishment. If the University considers the employee has made every effort to cross the picket line but was unable to do so, then it may be appropriate not to treat their absence as industrial action (i.e. not withhold pay).

## **14. Conduct**

14.1. Any employee who breaks the law or and/or fails to comply with the University's policies and procedures (including but not limited to the Bullying and Harassment policy) during or following industrial action, may be subject to the University's disciplinary procedure.

## **Absence for any other reason on a day of industrial action**

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### **15. Annual Leave**

- 15.1. Where an employee has holiday booked and authorised, this will continue to be honoured. However, no retrospective booking of annual leave will be permitted where this coincides with scheduled dates for industrial action.
- 15.2. Other than in exceptional circumstances, requests for annual leave on strike days (once they are known) will be declined.
- 15.3. Generally, the arrangements set out in paragraphs 15.1 and 15.2 will only apply to affected employees (i.e. groups whom it is anticipated will take part in the industrial action). The University will issue further information in the event of industrial action.

### **16. Other types of Absence**

- 16.1. Absence from the workplace for reasons other than annual leave (e.g. working from home, medical appointments, business trips, conference attendance, field trips) which is authorised/scheduled before the announcement of dates of industrial action will be honoured. However, no retrospective booking of absences can be made during or following industrial action, where this absence coincides with a strike day or days.

### **17. Absence due to sickness or other unforeseen circumstances on a strike day**

- 17.1. If an employee is absent from work for reasons unconnected with the strike, but which could not have been foreseen (e.g. an emergency domestic situation or sickness), they must follow the normal reporting requirements.
- 17.2. On an employee's return they will be deemed to have been absent because of industrial action until an explanation has been given to their manager. Failure to give an acceptable explanation may lead to pay being withheld. Managers are required to notify the Faculty Operating Officer/Director (or their nominated delegate).

### **18. Leave/absence which has not been authorised/scheduled**

- 18.1. Where an employee is absent from work on a strike day and it was not been authorised in advance, or reported and authorised on their return, it will be assumed that they took strike action and pay will be withheld.

## **Recording non-attendance/reporting on employees who take part in strike action**

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### **19. Reporting Arrangements**

- 19.1. Faculties and Directorates are required to report on the names of individuals who have participated in industrial action, so that pay may be withheld accordingly.
- 19.2. Faculty Operating Officers (FOO)/Directors (or their nominated delegates) will write to all staff in the categories identified in the notice of action to ask them to confirm whether or not they took part in strike action (there must be

a positive confirmation one way or another). A request to have this question answered is a reasonable management instruction.

- 19.3. Correspondence will advise/remind staff of the University's policy on withholding pay for strike action and will ask employees to confirm by a specified deadline that have participated in strike action. Employees will be informed that a failure to confirm by the deadline will be treated as an assumption that they participated in the action and pay will be withheld accordingly.
- 19.4. Faculties and Directorates will also report on the impact of strike action on the delivery of lectures and/or provision of services.

## **Action Short of a Strike (ASOS)**

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### **20. Partial Performance**

- 20.1. Where an employee takes part in action short of a strike (in cases other than "working to contract") this represents a breach of their contractual obligations.
- 20.2. The University has no obligation to pay for partial performance. Without prejudice to the University's right to withhold full pay, where an employee refuses to perform any of their duties, the University will consider the nature and impact of partial performance before determining whether pay will be withheld and on what basis. If the University chooses not to withhold pay or to withhold a lower amount, this does not prejudice the University's right to withhold full pay in future for partial performance.
- 20.3. Managers are required to report any instances of staff refusing to undertake any of their contractual duties to their FOO/Director.

## **Media Coverage of Industrial Action**

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- 20.4. The University's Public Relations (PR) and Comms team will monitor media coverage of industrial action. If managers or employees who are contacted by the media, they should be directed to the University's PR team (telephone: 020 8331 8937 (24/7 number) or [public.relations@gre.ac.uk](mailto:public.relations@gre.ac.uk)).

## **Additional Information**

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### **21. Further Advice**

- 21.1. For further advice, please contact Rob Morris, Deputy Director of People, People Directorate.