

School Employment Manual

Industrial Action Guidance

This document applies to all Community and Voluntary Controlled Schools and is advisory for Foundation and Voluntary Aided Schools.

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Overview

In the event of industrial action, we ensure all employees and our services are protected. To do this, we have lawful, fair and consistent arrangements in place.

For maintained schools, trade unions must notify the Executive Director for Children's Services or the Chief Executive of all industrial action. They must do so at the earliest opportunity and no less than the statutory 10 days.

Once received appropriate communication will be issued to all maintained schools.

Trade unions must make available information as per the [code of practice on industrial action ballots and notice to employers](#).

Trade unions must include in any notice of industrial action, all information they have on the number, category or workplace of the employees concerned. We can then take any action necessary to protect our services.

Headteachers must:

- take their lead on any appropriate action during a dispute
- ask employees if they intend to take industrial action to plan service delivery. The request must not be intimidating. At the time of asking, some employees may not know, but we may still ask them
- ensure all statutory requirements relating to industrial action are adhered to during the dispute. This includes our responsibility for the health and safety of our employees who remain at work
- update the governing body on the progress of the dispute
- maintain regular dialogue with trade union representatives where appropriate
- ensure they make regular contact with the appropriate national body during national disputes. It may however be the County Council does this in most circumstances.

Agencies must not provide workers to cover work that people taking part in lawful strike action would usually do. Agency workers already in place as part of normal business can carry on their work. Employees and trade unions must ensure that any industrial action taken against the council is lawful. It must be in accordance with the relevant legislation and our code of practice for employees.

Code of Practice for Employees

This code aims to ensure that:

- employees get a clear indication of our likely response to industrial action and their legal responsibilities
- there is consistent and fair handling of industrial action
- reasonable support and protection is given to all employees whether taking part in industrial action or not

- employees taking lawful industrial action on the instruction of their trade union are not later discriminated against or victimised

Legal Requirements

As per The Trade Union and Labour Relations (Consolidation) Act 1992, Section 220, Code of Practice: Picketing and ACAS Advice on picketing we remind employees that:

- they may peacefully picket:
 1. at or near their place of work for the purpose only of obtaining or communicating information, or
 2. to persuade any person to work or to abstain from working
- picket lines are restricted to no more than six pickets at any entrance to, or exit from, a workplace.
- secondary picketing in support of employees outside of the school is unlawful.

Contractual Requirements

Pay

Employees will not receive their normal pay for days absent through industrial action.

Where employees take part in industrial action short of strike action, we may:

- withdraw a percentage of pay
- send the employee home on no pay where this significantly impacts on service delivery

We will treat employees who do not attend work due to a refusal to cross a picket line as taking strike action.

Annual leave

Where, applicable leave booked before notification of Industrial Action will be honoured and the individual will be considered as on leave and not on strike for pay purposes. Leave can be taken in the periods between discontinuous strike action subject to the normal conditions.

After date of notification of Industrial Action, we will not be able to automatically agree leave requests on the day(s) of industrial action. Each request will be considered according to its merits and needs to balance our ability to provide a service to the public.

Term time only staff have their annual leave entitlement calculated and paid within their annual salary; typically, the days taken off fall within the school holidays and therefore the above would only apply to those on non-term time only contracts and make annual leave requests throughout the annual leave year.

Strike action taken cannot be retrospectively claimed as leave. If action is taken on or before a Bank Holiday, then the Bank Holiday will also be regarded as strike day and payment will be deducted accordingly.

Sickness Absence

If employees are absent due to sickness before industrial action starts, they will be assumed to be on sick leave, providing the necessary certification is produced. If employees report as sick on the day the action starts, the service will need to make its own assessment, considering any evidence they can provide, as to whether they are on sick leave or strike.

Conduct

Any employee who breaks the law or our code of conduct whilst participating in industrial action will breach their contract. The employee may be subject to our disciplinary policy.

Whether an employee did or did not take part in strike action, other employees must not:

- harass
- intimidate
- abuse
- show less favourable treatment

We will treat any example of these behaviours seriously and will deal with it accordingly.

Employees Remaining at Work

We expect employees who choose not to take part in industrial action to undertake their regular duties.

Where a school's services are not being delivered, or an employee cannot gain access to their workplace because of an obstruction, we may ask employees to undertake duties outside of their normal job description or from another work base. Such occasions could be:

- to ensure our essential services are delivered
- or, where an employee cannot gain access to their workplace because of an obstruction

We will not risk our employees' health and safety.