

Industrial Action- Employee Q&A

FREQUENTLY ASKED QUESTIONS

Q1 - I am not in the union can I take part in the Industrial Action?

You have protection against unfair dismissal if you take part in industrial action without being a member of a trade union. However, this is dependent on the circumstances in your particular workplace. You are advised to verify your employment protection with HR&OD prior to undertaking any industrial action.

Q2 - What happens if I am not on strike but do not want to cross the picket line?

If you are not directly involved in the dispute and you refuse to cross the picket line the Council could treat you as taking part in the strike. However, the Council will do their utmost to ensure that workers who are willing to work are not prevented from crossing the picket line, (for example through intimidation).

If the council considers that you have done everything reasonable in the circumstances to come into work but was prevented by events outside your control, the Council may decide not to treat your absence as industrial action.

Q3 - What advice can you provide to me about crossing the picket line?

Any employee wishing to cross the picket line might find these suggestions useful:

- Show willingness to communicate with the picketers.
- Explain in a polite manner that you have the legal right to report to work.
- Remain calm.

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Q&A

- Explain your situation to any picketers, who communicate with you, e.g. I'd like to exercise my right to come to work.

If you are not allowed through the picket line, or feel threatened at any time you are advised not to use force in return. You should be prepared to pass on any information about any incidents which may occur.

You should contact by telephone if possible your line manager or another manager in your Service or location to notify that you are having problems crossing a picket line.

Q4 - How will payroll know if I took part in the Industrial Action?

Your Service will be required to notify payroll and your pay will be deducted accordingly. You do not need to complete an unpaid special leave form.

Q5 - Can I request annual leave on the day of strike?

No new requests for Annual/Flexi leave will be granted after date. Any leave already approved will be honoured.

Q6 - What happens if I am sick on the day of Industrial Action?

You will be required to provide a GP certificate if your sickness absence starts on the actual day of the industrial action. This will not apply if you are already on sick leave prior to the industrial action day.

Q7 - What happens if the Council have to close the building I work in?

If the council decides to close a particular workplace and you wish to report for normal duties you will be advised before the day of the strike to report to an alternative Council building that will be open. You will be required to contact your line manager (or appointed person) to confirm your presence. If the council cannot find alternative duties, as a last resort, you may be sent home on full pay.



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human resources and organisational development

Q&A

If you are required to work at an alternative workplace you will be reimbursed the cost of any additional travel costs. These costs can be claimed by completing the Travel & Expenses Claim Form.

Q8 - Do I get credited normal hours for flexi-time purposes when on strike?

As a result of industrial action you (or the Service Administrator) should record 7.25 hours, or your normal working hours, for the day. However, this time cannot be taken into account in terms of the payment of overtime rates. You must have actually worked in excess of 37 hours in the same week to qualify for the overtime rate.

Q9 - Can I take Special Leave to care for my children?

Special leave (time off for dependants) cannot be taken in order to care for your children in these circumstances. If you cannot make alternative child care arrangements, then you will be entitled to take unpaid leave or make an application for annual or flexi leave up to a specific date.

Q10 - Will participating in the strike action result in a break in my service, regarding pension entitlements?

Strike action is not considered a break in service as regards pension entitlements. However, employees will not accrue pension benefits while on strike.

Local Government Pension Scheme members can 'buy back' pension accrual by taking an Additional Pension Contract (APC). To investigate this, you must send a PEN11 application form to Payroll.

The PEN11 form together with guidance on completing it, including how to obtain the cost of the APC, is available from the Pension Fund website at:

www.nespf.org.uk/Members/lgp_library.asp or may be requested;

By phone: 01224 264264

HR & OD POLICIES

human resources and organisational development

Q&A

By e-mail: pensions@nespf.org.uk

By post: North East Scotland Pension Fund, Corporate Governance, Business Hub 16, 3rd Floor – West, Marischal College, Broad Street, Aberdeen, AB10 1AB

The form may be sent to Payroll -

Via AskHR: <https://abshire.cherwellondemand.com/CherwellPortal/askhrv2#0>

By post: Payroll Section, Aberdeenshire Council, Woodhill House, Westburn Road, Aberdeen AB16 5GB

The Pension Fund will make arrangements with Payroll for the deduction of the cost of the APC from your pay. The Council will not contribute to the cost of buying back the “lost” pension.

Please note that

- If you do not return to work after the strike period you will not be eligible to take an Additional Pension Contract – it is necessary to be an active member of LGPS.
- The Pension Fund will determine whether payment can be made as a regular amount over a period of time one or whether it must be made as a one-off lump sum.
- The Pension Fund may require you to provide a report from a registered medical practitioner prior to agreeing the APC – this would be at your own expense.

For further information contact the North East Scotland Pension Fund as above.

Q11 - Can I work from home on the day of the strike?

This will depend on the circumstances and will be at the discretion of your line manager. It is expected that this will only be granted to employees who are already permitted to work from home.

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Q&A

Q12 - Can the McCrone Time and Place arrangement be used for teachers who are not taking industrial action?

No, this arrangement will be suspended on the day of the industrial action.

Q13 - I am a supply/relief worker will I be paid on the day of the strike?

You will only be paid if you were already contracted to work on that particular day and were unable to come into your work due to a school/building closure.

Q14 - Can I be dismissed for participating in official strike action?

If you take part in official strike action you are legally protected. Unfair dismissal can be claimed if:

- It takes place within 12 weeks of the employee commencing industrial action.
- It occurs after the 12 weeks but the employee had returned to work before the end of the 12 weeks.
- It occurs after this period and the employer has NOT taken all reasonable steps to resolve the dispute.

Q15 - Can I be disciplined for taking part in a strike?

No. Under normal circumstances a breach of contract would result in disciplinary proceedings. However, it is generally inappropriate to bring disciplinary proceedings against an employee because they took part in industrial action.

However if the action is unofficial you may be the subject of disciplinary action.

Misconduct during the strike should be subject to the normal disciplinary procedure. For example, violence, intimidation, harassment or damage to property.



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Q&A

Q16 - What is the exemption rule for the strike regarding retirement date officials versus possible early intentions?

This exemption only applies for those who are in their last year of service before their official retirement date, not if they are considering taking early retirement. (This exemption does not apply to teachers).

Q17 - Can I make a request to take TOIL on the day of the industrial action?

Yes, and your request for TOIL will be considered in the same respect as annual or flexi leave. You will be notified of the last date that requests for this type of leave can be made.

Q18 - Can I work through my lunch break and leave early on the day of the industrial action?

You will be required to work your normal contracted hours/work pattern on a day of industrial action.

Q19 - I wish to undertake industrial action, but I am pregnant how will this affect my maternity pay?

You will be exempt from strike action if you have informed your manager of your pregnancy.

Q20 - I work part-time and I am not scheduled to work on the day of the industrial action what will happen to my pay?

There are no implications for your pay and you should continue to work your normal working pattern.



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Q&A

Q21 - I am a trade union member but I do not wish to take part in industrial action, will I be thrown out of the union?

This would be a matter for the trade union.

Q22 - I may have problems with childcare on the day of the industrial action can I take my children to work?

No, this would not be permitted. You would be required to make an application for unpaid leave in this instance.

Q23 - I am working on a fixed term contract will taking industrial action result in a break in my service?

No, industrial action would not result in a break of your service.

Q24 - I am not taking industrial action but my place of work may be closed, will I be reimbursed for travel expenses if I have to work elsewhere?

Yes, Aberdeenshire Council would reimburse any travel expenses which are greater than your normal daily commute.

Q25 - I am a school escort do I have to report to school on the day of the industrial action?

No, you would not be required to report to your school and you will be paid as normal.

HR & OD POLICIES

human resources and organisational development

Q&A

Q26 - I am a school crossing patroller do I have to report to my school on the day of the industrial action?

Yes you would be required to report to your school to note your attendance and then you can return home. If you have noted your attendance you will be paid as normal. However, you if have been notified that your school base is not open then you should remain at home and you will be paid as normal.

Q27 - Do I need to complete an unpaid special leave form if I plan to take industrial action?

You **must not** complete an unpaid special leave form. Payroll will issue a separate form to Services to identify those employees who have undertaken industrial action.

Q28 - What pay will be deducted from my salary if I take industrial action?

You will have the normal number of hours that you would have worked on that day deducted from your salary.

Q29 - What can pickets say to employees trying to enter their workplace?

The law allows pickets to seek to explain their case to those entering or leaving the picketed premises, and/or to ask them not to enter or leave the premises where the dispute is taking place. This may be done by speaking to people, or it may involve the distribution of leaflets or the carrying of banners or placards putting the pickets' case. In all cases, however, any such activity must be carried out **peacefully**.



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Q&A

Q30 - What should I do if I feel I have been subject to abuse or threatening behaviour whilst attempting to cross a picket line?

Any activities undertaken by pickets must be carried out peacefully. If you feel that this has not been the case and you have been subject to abusive language for example you must report the matter immediately to your line manager or another manager at your location.

Q31 - I do not work in a school but the school my children attend is closed due to the industrial action do I get paid leave?

You will have to make a request for either annual leave, flexi leave or unpaid leave.

For further advice and guidance on any of the above please contact a member of HR&OD.