

































Industrial Action - Q&A




QUESTIONS AND ANSWERS	MAY BE APPLICABLE TO:		
	EMPLOYEES PARTICIPATING IN INDUSTRIAL ACTION	EMPLOYEES NOT PARTICIPATING IN INDUSTRIAL ACTION	MANAGERS
<p>Q1 - I am not in the union can I take part in the industrial action?</p> <p>You have the same protection as union members against unfair dismissal, if you take part in lawful industrial action without being a member of a trade union. This would be recorded as unpaid leave.</p> <p>DO NOT submit an unpaid special leave form – please see Q13.</p>			
<p>Q2 - Can a new trade union member participate in industrial action if they joined the trade union after the ballot?</p> <p>Yes and this will not affect the outcome of the ballot result.</p>			
<p>Q3 - What are the rules on picketing?</p> <p>Picketing is an indirect form of industrial action that is protected by immunities in the same way as industrial action. In order to retain immunity from legal proceedings, picketing has to take place at or near the picket's place of work and must be carried out peacefully, in accordance with the law, both in respect of persuading others not to work and obtaining or communicating information. A Picket Supervisor must be appointed by the Trade Union(s) involved in the industrial action.</p>			
<p>Q4 - Is there a limit to the number of pickets allowed?</p> <p>The Department for Business, Energy and Industrial Strategy has produced a Code of Practice on Picketing. The Code contains advice on picketing, including suggestion that the number of pickets be restricted to six at any entrance. The Code is not legally enforceable but provides general guidance and good practice. It can be downloaded by clicking on the following link Code of Practice on Picketing</p>			








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<p>Q5 - What can pickets say to employees trying to enter their workplace?</p> <p>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. In all cases, any such activity must be carried out peacefully without abusive or threatening behaviour.</p>			
<p>Q6 - What happens if I am not participating in industrial action but do not want to cross the picket line?</p> <p>If you are not directly involved in the dispute and you refuse to cross the picket line the Council would treat you as taking part in the strike. This would be recorded as unpaid leave.</p> <p>DO NOT submit an unpaid special leave form – please see Q13.</p>			








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<p>Q7 - What advice can you provide to me about crossing the picket line?</p> <p>Any employee crossing the picket line might find these suggestions useful:</p> <ul style="list-style-type: none"> • Show willingness to communicate with the picketers. • Explain in a polite manner that you have the legal right to report to work. • Remain calm. • You may want to discuss with your managers potential support, for example, meeting with your manager or a colleague and coming in to work together <p>If you are not allowed through the picket line, or feel threatened at any time you are advised not to use force in return. If any such incidents occur you must report the matter immediately to your line manager or another manager at your location.</p> <p>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). The Council may deem it necessary to provide sufficient safety measures to allow workers to cross a picket line, or to provide an alternative means of entry to the workplace or provide alternative workplaces.</p> <p>If the council considers that you have done everything reasonable in the circumstances to come into work but were prevented by events outside your control, the Council may decide not to treat your absence as industrial action.</p> <p>DO NOT submit an unpaid special leave form – please see Q13.</p>			
<p>Q8 - Can pickets try to prevent non-authority employees crossing the picket line?</p> <p>It is lawful for a picket to try and persuade workers of another employer to break their contract of employment. For example by persuading a delivery driver or contract worker not to cross a picket line.</p>			














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<p>Q9 - Can I be dismissed for participating in official strike action?</p> <p>If you take part in official strike action you are legally protected. Unfair dismissal can be claimed if:</p> <ul style="list-style-type: none"> • 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. 			
<p>Q10 - Can I be disciplined for taking part in industrial action?</p> <p>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.</p> <p>However if the action is unofficial you may be the subject of disciplinary action. Misconduct during the strike would be subject to the normal disciplinary procedure. For example, violence, intimidation, harassment or damage to property.</p>			
<p>Q11 - Will participating in industrial action result in a break in my service, regarding pension entitlements?</p> <p>Absence due to strike action for one or more days will not count for pension purposes and will not be included in the calculation of your benefits.</p> <p>Local Government Pension Scheme members can 'buy back' pension accrual by electing to pay Additional Pension Contributions (APC).</p> <p>To buy lost pension visit APC Calculator and select "Buy Lost Pension".</p>			











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<p>Q12 - Can a line manager ask the question to employees if they are intending to take industrial action or not?</p> <p>A line manager can ask the question to employees, however please note that employees are not obligated to provide an answer although they should answer this question if asked after the event.</p>			
<p>Q13 - Do I need to complete an unpaid special leave form if I plan to take industrial action?</p> <p>You must not complete an unpaid special leave form. Payroll will issue a separate form to Services to identify those employees who have participated in industrial action.</p>			
<p>Q14 - How will payroll know if I took part in the industrial action?</p> <p>Payroll will provide a form for your Service to complete with details of employee's who took part in industrial action. As indicated in Q13, you should not complete an unpaid special leave form.</p>			









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<p>Q15 - What pay will be deducted from my salary if I take industrial action?</p> <p>The appropriate number of hours that you were on industrial action will be deducted from your salary. Any strike days will not count as pensionable service (Local Govt pensions only) and will not count towards the accumulation of continuous service for qualification of your conditions of service, or statutory rights and entitlements such as qualifying for a redundancy payment.</p> <p>The employee can, however, buy back the amount of pension lost by choosing to pay extra contributions, known as Additional Pension Contributions (APCs).</p> <p>This would apply to all staff who take part in industrial action, whether they are part of a Trade Union or not.</p> <p>If you work a compressed work pattern and you take part in industrial action, if that date falls on your non-working day you will not be classed as on industrial action and pay will not be deducted.</p>			
<p>Q16 - I wish to undertake industrial action, but I am pregnant how will this affect my maternity pay?</p> <p>You may be exempt from strike action if you have informed your manager of your pregnancy. Exemptions are normally granted by the relevant Trade Unions.</p> <p>Periods spent on strike do not break continuity for the purposes of qualifying for statutory maternity pay and leave. However, the number of days between the last working day before the strike and the day on which work resumes will not count. This may impact on calculation of average earnings for maternity pay.</p>			


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<p>Q17 – I'm employed on a fixed term contract. Will taking industrial action result in a break in my service?</p> <p>No, industrial action would not result in a break of your service.</p> <p>Please note any strike days will not count as pensionable service (Local Govt pensions only) and will not count towards the accumulation of continuous service for qualification of your conditions of service, or statutory rights and entitlements such as qualifying for a redundancy payment.</p>			
<p>Q18 – When taking industrial action how is this recorded on the Bodet system?</p> <p>If you take part in industrial action this will be recorded on the Bodet system as 'Strike Action' but recorded in a similar way as Unpaid Special Leave eg you will retain your normal working hours for that day but be unpaid.</p>			
<p>Q19 – If I take industrial action and I am then called out do I still meet the criteria for overtime?</p> <p>No, you must still meet the normal overtime criteria. You will not be credited any hours for undertaking industrial action. You must have actually worked in excess of 37 hours in the same week to qualify for the overtime rate.</p>			
<p>Q20 - Can I work from home on the day of industrial action?</p> <p>This will depend on the circumstances and will be at the discretion of your line manager. Employees who currently work from home will continue to do so.</p>			

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<p>Q21 - I may have problems with childcare on the day of the industrial action can I take my children to work?</p> <p>No, this would not be permitted. You would be required to make an application for unpaid leave in this instance.</p>			
<p>Q22 - Can I take Special Leave to care for my children?</p> <p>Time off for Dependents is available under Aberdeenshire Council's Special Leave Procedure for any employee who may be affected by disruption to provision of early years or learning in schools. All staff who are advised of a school closure affecting their child should now make alternative arrangements for childcare for the period of any closure of a school to pupils, and will still be required to attend the workplace if they are not taking part in strike action. If this is not possible then a period of unpaid special leave may be granted in line with the procedure. There may be circumstances where a request may be made to the Head Teacher for work to be undertaken at home or an alternative location, however this will depend on the individual circumstance and the potential impact on the delivery of learning within the school. Paid special leave would not apply where notice has been given of closure as this provision only applies where there is an emergency or unexpected reason where the presence of the parent or carer is required.</p>			
<p>Q23 - Can I request annual leave, flexi leave or TOIL on the day of industrial action?</p> <p>Yes. You should request leave from your line manager 7 days prior to the date of any strike action and your request will be considered. Any leave already approved will be honoured.</p>			
<p>Q24 – Will my annual leave be affected if I take part in strike action?</p> <p>For those employees taking strike action, your annual leave may be reduced. Any time deducted would be calculated against the amount of days strike action you took part in.</p>			

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<p>Q25 - Can Non Class Contact time be used for teachers and music instructors who are not taking industrial action?</p> <p>No, this arrangement will be suspended on the day of the industrial action.</p>			
<p>Q26 - What happens if I am sick on the day of industrial action?</p> <p>You should follow all usual absence reporting procedures for your workplace. You will be required to provide a GP certificate if your sickness absence <u>starts</u> on the actual day of the industrial action This <u>will not</u> apply if you are already on sick leave prior to the industrial action day.</p>			
<p>Q27 - I am a supply/relief worker will I be paid on the day of industrial action?</p> <p>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.</p>			
<p>Q28 - I work part-time and I am not scheduled to work on the day of the industrial action what will happen to my pay?</p> <p>There are no implications for your pay and you should continue to work your normal working pattern.</p>			
<p>Q29 - What happens if the industrial action is for a short period e.g. One hour in duration?</p> <p>The same procedures in terms of notification etc require to be followed. The Service will require to record the names of those who take part in the action for notification to payroll. The employees may be allowed to remain at their desks/work area while striking as long as they do not become disruptive. If they become disruptive it would not be unreasonable to ask them to go to a designated area e.g. Canteen or outside the building.</p>			

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<p>Q30 - Will Council in-house training courses still take place?</p> <p>The training organiser will advise on this. It will depend on whether the relevant trainers are to attend work and/or if exemptions are granted by the relevant Trade Unions.</p>			
<p>Q31 - Will caretakers who would normally cover school lets get paid on the day of the industrial action?</p> <p>Yes, provided that they would normally work on the day of the industrial action (an established work pattern) they can claim for the hours they normal work. If the establishment is open they should report to work as normal, otherwise it will be deemed they have taken industrial action and pay will be deducted.</p>			
<p>Q32 - What happens if the Council have to close the building/school I work in?</p> <p>If the council decides to close a particular building / school to pupils, you are required to report for normal duties at your place of work. Teaching staff may be asked to teach pupils virtually using appropriate equipment.</p> <p>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 a Travel & Expenses Claim Form or using the online version, where available.</p>			
<p>Q33 - 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?</p> <p>Yes, Aberdeenshire Council would reimburse any travel expenses which are greater than your normal daily commute.</p>			
<p>Q34 - Can agency workers be used to cover for the workers taking industrial action?</p> <p>Employment businesses can now supply agency workers to an employer to perform the duties of a worker who is on strike or taking part in other industrial action.</p>			

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<p>Q35 - What Exemptions & Emergency Cover arrangements will be put in place?</p> <p>The exemptions and emergency categories have been nominated by the Strategic Leadership Team (SLT) and a formal request made to the relevant Trade Unions for approval. Once these responses have been received appropriate guidance will be issued by Service Directors.</p>			
<p>Q36 - Key holders: What happens if they are taking part in industrial action? Who will be responsible for opening and closing of buildings? What about alarm/security codes – are employees expected to pass these to others?</p> <p>The decision will be made for schools by Head Teachers and this information will be communicated through normal school routes.</p>			
<p>Q37 - Who will decide when a building is to be closed and how will employees /public/service users be advised?</p> <p>The decision will be made for schools by Head Teachers and this information will be communicated through normal school routes.</p>			
<p>Q38 - How will schools/workplaces record which employees have attended / not attended?</p> <p>Arrangements must be put in place to ensure that an attendance record is made of all those employees who have reported to work on the day of the industrial action and those who have not. This is in order that the subsequent request for information from payroll of the names of those who had taken industrial action can be accurately completed.</p>			

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<p>Q39 - How will we record those who have not attended due to taking industrial action for payroll purposes?</p> <p>Managers will be sent a spreadsheet to complete from Payroll which will allow them to record their direct reports who had not attended due to taking industrial action. This spreadsheet will have guidance for completion and submission.</p>			

For further advice and guidance on any of the above please contact askHR at askHR@aberdeenshire.gov.uk or 01467 534400