

UNISON Scotland – Universities Pay Strikes 2022

Industrial Action – FAQs - RGU

What is industrial action?

Industrial action can include strike action (which is any concerted stoppage of work) or action short of strike action such as ‘go-slows’ or ‘working to rule’. Action in this dispute will be strike action.

Is it against the law to strike?

Although there is no positive legal right to strike in the UK, strike action organised by a trade union is legal provided some tough conditions are met.

For example:

The union must have conducted a lawful ballot of all the members it believes will be called upon to take part.

The action must be over a trade dispute between workers and their employer over an issue like terms or conditions of employment and as defined in s.244 of the Trade Union and Labour Relations (Consolidation) Act 1992.

The general secretary or someone else authorised by the union’s rules, must authorise any industrial action.

The person named on the ballot paper must make a call for action before industrial action can take place.

There are very strict rules about the ballot and the notice that must be given to the employer about the action.

UNISON has met these conditions, this strike action is therefore lawful.

Picketing

A picket line is when members meet at the workplace to increase awareness and support for their cause. Picketing members may also tell other workers about the problem in the workplace.

During a picket line you are allowed to persuade workers, including substitute workers and delivery people, to stop interacting with the business. This must be done peacefully, as criminal law still applies to picket lines.

You are not allowed to use threatening behaviour or force to prevent others from attending work, cause criminal damage, or prevent police officers from carrying out their duties.

The police can use special powers, such as obtaining an order prohibiting the picket, if the picket contains more than 20 people and they believe it may result in serious disruption to the life of the community.

Pickets should wear an armband indicating they are on duty. Placards and posters should be displayed stating “Official Picket.”

UNISON will support members to organise and participate in picket lines.

Can I go to the workplace during the strike action?

Members must not access their workplace during the strike action – this is still crossing a picket line even if you haven't literally walked past the picket. The branch will aim to provide refreshments for members who are standing on the picket line. Due to the fact there are no businesses nearby however, we do have permission from RGU to enter the building if absolutely necessary to use the toilet facilities.

Dismissal for taking part in Industrial Action

It is automatically unfair to dismiss someone who has taken part in any lawful industrial action within 12 weeks of the action.

Can an employer deduct your wages for taking part in industrial action?

Yes, this is part of strike action, and UNISON will try to mitigate this with national strike pay (£50 per day from day one) and hardship payments from the local branch fund.

Am I breaking my contract by taking strike action?

Technically yes, but UNISON will only ask you to strike after a lawful statutory ballot. The law protects workers from dismissal while taking part in lawful industrial action at any time within 12 weeks of the start of action. Depending on the circumstances, dismissal may also be unfair if it takes place later.

Are my pension contributions affected if I take strike action?

If your employer decides to dock your pay for the day(s) of action, the employers do not have to pay pension contributions during that period, and you would not have paid your portion of contribution for that day. The impact on your final pension would be extremely small but you might want to consider replacing the lost contribution. Arrangements will be different in each employer, so please ask local reps for more detailed information on what's happening at your University.

Do I have to strike if I'm a UNISON member?

As a member of a democratic union, you really should participate in a strike if there is a vote for strike action.

You cannot be forced to do so, but it is part of belonging to a democratic union in which decisions are made collectively and where conditions are improved for all through collective action.

We recognise that taking strike action is very serious, which is why UNISON asks you and every other member to observe the strike, if called.

Every member who does not strike undermines our bargaining power and makes it harder for us to protect all our members.

I am in my first 12 months of employment – what are my rights?

Employees are protected from dismissal during the first 12 weeks of any lawful, balloted, official industrial action. Any dismissal for taking part in industrial action in the 12-week period, regardless of how long the employee has worked, or their age, is automatically unfair unless a tribunal decides the dismissal was not to do with the industrial action.

Contact UNISON immediately if there are any issues.

I've heard that strike would be seen as a break in service and that my continuity of service would be broken. Is this true?

No – strike does not impact on your continuous service.

What if I am on sick leave?

Workers who are absent on sick leave when a stoppage of work starts retain their right to sick pay during the period of industrial action.

If an employee reports sick on the day the action starts, the employer can be expected to make their own judgment as to whether they should be regarded as on sick leave or on strike. If this applies to you, seek advice from your local representative in the first instance.

What if I am part-time?

UNISON believes that any deduction of pay must be pro rata for part time staff. The deduction must be only for your contracted hours. If you receive a disproportionate deduction, seek advice from your local branch urgently.

What if I have external work commitments on the day of the strike?

If your commitments are part of your normal work for your employer, you should not attend them.

What if I take annual leave?

UNISON does not regard anyone who takes annual leave on strike days to be taking part in the strike action.

If you can, we would like you to postpone your leave so that you can take part in any strike action.

I am not a member of UNISON but I want to strike

Non-members can join the union at any time and can take part in the strike.

If non-union members go on strike, they are protected from dismissal and have the same rights as union members, as long as the industrial action is lawful, which it is.

We are not attempting to poach members from other unions – all the other HE trade unions are in dispute, and are at different stages of balloting their members for strike action. UNISON's senior representatives brought our ballot forward so action could take place at the most impactful time in the academic year.

I work shifts - when do I strike?

Unless you have been explicitly advised otherwise by your local branch, the strike starts at 00.00 and ends at 00.00 on each day of the strike action. You should strike for those portions of your shifts which fall during those hours on the days of strike action. You must ensure you are working your normal shifts on the day before and after the days of strike action.

Do I have to tell my manager if I'm going to strike?

No, you don't have to tell you manager or any employer representative whether you plan to take part in the industrial action or not. We ask UNISON members not to help managers as they try to put plans in place to mitigate against any industrial action. We want industrial action to be as successful as possible.

Will my employer try to stop me taking strike action?

Many employers sent communications out to their staff leading up to and during strike action to try and persuade staff not to strike. You shouldn't feel under pressure if this happens, and you should notify the branch immediately.

In previous disputes the University has written to staff asking them to indicate if they intend to take strike action to help with their planning. Providing information to the employer will undermine the strike action.

What happens to my work when I strike?

Your work won't be done if you strike. The employer may ask colleagues who have chosen not to strike to cover your work, but we hope that your colleagues will join the strike and not cover your work. Members of other unions will be instructed not to cover the work of striking colleagues. Members should continue with their normal work routine before and after any strike action, don't feel under pressure to adjust your routine, this will only undermine the strike action.

If new agency staff have been brought in to cover for your work, provide a detailed report to your branch, as this may be subject to legal challenge from UNISON. The Tories have recently legalised this anti-union tactic, but our legal team is looking at a challenge to this on human rights grounds.

Do I qualify for strike pay if I'm not a UNISON member?

Only UNISON members will qualify for strike pay from UNISON, but people can join as late as the day of the strike and claim support, if they take action.

What about the students?

UNISON knows that many members don't like taking action that affects students. Formally, it is the employer's responsibility to explain to students if services to students and classes are to be cancelled on strike days. However, the branch and members may wish to talk to students on campus before the strikes. You should explain why the union is taking this action and the impact these pension proposals will have on your retirement.

Is there anything else I can do?

*Do all you can to bring colleagues from your department in to the union, out on strike, and to the picket line.

*Share branch communications with colleagues and work friends (we may not have contact details for everyone) doing your bit to build support for the strike.

*Contact your MSP, MP and other political representatives, stressing you are a constituent, asking them what they're doing to put pressure on employers for a just outcome to this dispute.

*Share UNISON and branch social media content within your own networks, building public support for the strike and spreading the word.