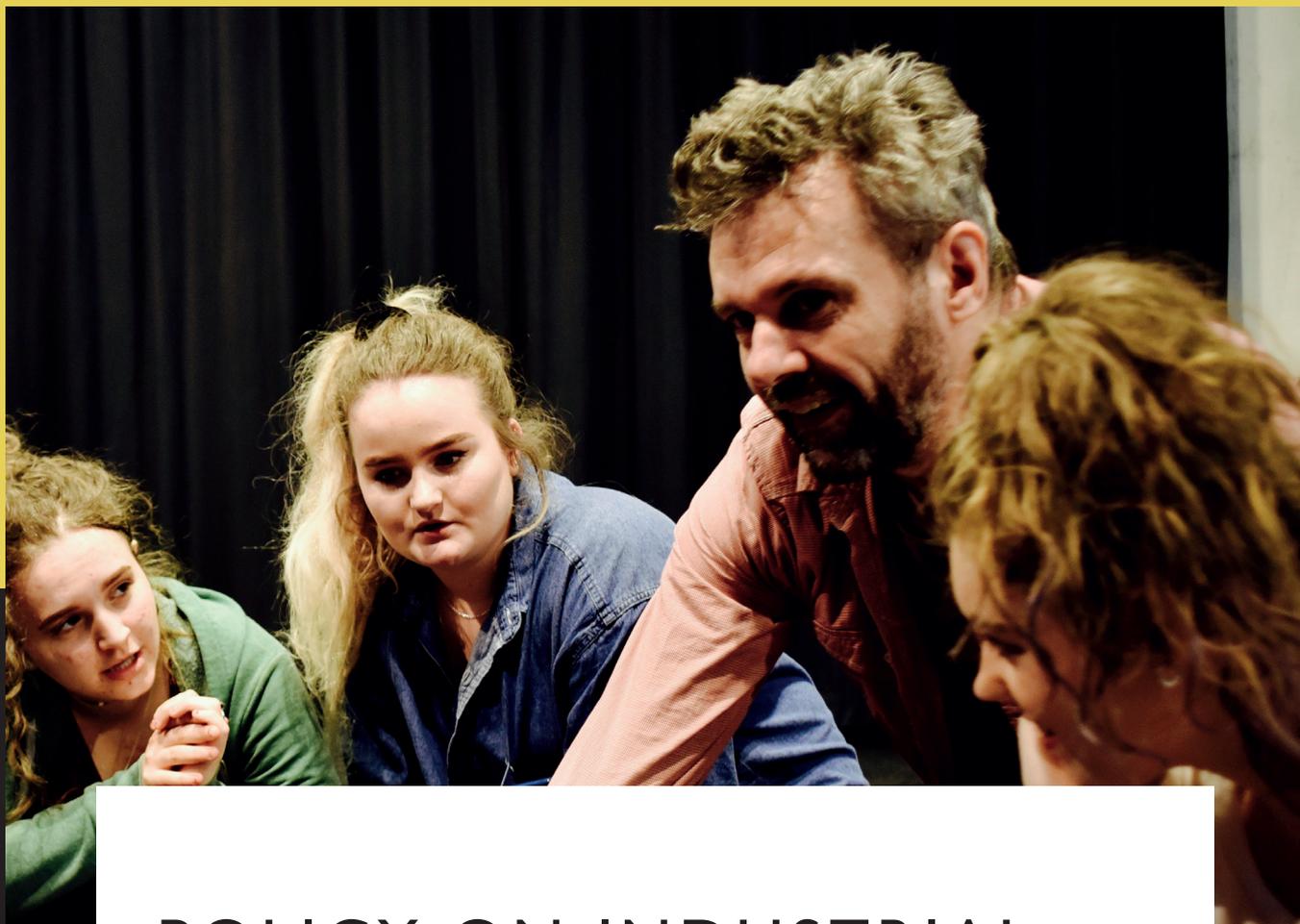




BUCKINGHAMSHIRE  
NEW UNIVERSITY

EST. 1891



# POLICY ON INDUSTRIAL ACTION AND WITHHOLDING PAY

Effective from January 2015

## Contents

1	Aims and Purpose	3
2	Scope and Availability	3
3	General Principles	3
4	Strike Action	3
5	Action Short of a Strike (partial performance)	3
6	Communication with employees regarding the withholding of pay	4
7	Annual Leave during Industrial Action	4

### Preamble

All University formal documents relate to the policies, strategies, procedures and regulations of the University having been approved by the appropriate formally recognised and constituted body. All University employees and students are required to adhere to the formal processes and regulations of the University.

This document should not be read in isolation as other University processes/formal documents could be relevant. A full listing of all formal documents is available on the University's website.

Any interpretation of the content of this formal document will be at the discretion of the HR Services Director

The names of committees and titles of posts may change from time to time. This shall not invalidate the powers of the equivalent successor committees or post holders.

**We will consider any requests for accessible formats eg Braille, tape, disc, email or a larger font size. Please let us know what you need by contacting the Human Resources Directorate**

## 1 Aims and Purpose

- 1.1 The University's policy on industrial action and withholding pay has been developed to protect its mission to provide students with the best possible learning experience and to mitigate the risk of student claims.
- 1.2 The policy is intended to ensure that the University complies with all relevant employment legislation.

## 2 Scope and Availability

- 2.1 This policy outlines the University's position in the event of industrial action being taken and covers both strike action and action short of a strike (partial performance).
- 2.2 Copies of this policy are available from the Human Resources Directorate and the University website.

## 3 General Principles

- 3.1 Industrial action should be a last resort. Employees taking any form of industrial action are in breach of their contract of employment as they are not undertaking the work they are paid to do.
- 3.2 Official industrial action is protected, subject to certain rules, for unfair dismissal purposes. However, there is no obligation for the University to pay employees for work that has not been done or for partial performance.

## 4 Strike Action

- 4.1 A day's pay will be withheld for each day of strike action in which employees participate.
- 4.2 A day's pay will be calculated on the basis of  $\frac{1}{260}^{\text{th}}$  of an employee's annual salary. In the case of part time employees, pay will be withheld on the basis of the number of hours the individual would normally have worked on a particular day.

## 5 Action Short of a Strike (partial performance)

- 5.1 The University rejects the notion of action short of a strike or partial performance. Employees who refuse to undertake some or all of their contractual duties are in breach of their contracts of employment, whether or not they are willing to perform some duties. In these circumstances the University will be entitled to withhold the pay of such employees as outlined in 5.3.
- 5.2 Employees are not entitled to choose which of their contractual duties they will undertake. If an employee chooses to perform some of their duties, this partial performance will be voluntary. The University will neither be deemed to have accepted the partial performance nor be obliged to pay for it.
- 5.3 In the case of action short of a strike, the University shall be entitled to withhold pay wholly for the period of the industrial action and this will not reflect partial payment for partial performance. The University reserves the right to reassess and modify its position as appropriate at any point during the industrial action. Employees will be notified of any change in the University's position by letter as soon as reasonably practicable.

- 5.4 The withholding of pay is without prejudice to the University's right to change the amount of pay being withheld, or to pursue any other remedy of breach of contract against an employee.

## 6 Communication with employees regarding the withholding of pay

- 6.1 The Vice Chancellor or nominee will write to all categories of employees potentially covered by the industrial action, advising that participation in industrial action is a breach of contract, and giving notice that pay will consequently be withheld and on what basis. This letter will be sent out electronically via Digest.
- 6.2 Employees will be asked to respond to a survey via a link within the Digest to confirm if they a) intend to take part in the industrial action or b) took part in the industrial action or not. If no response is received, checks will be made as far as possible to ensure that the reason is not due, for example, to sickness absence, annual leave, maternity leave, paternity leave or for employees who were not scheduled to work on the day(s) of industrial action, otherwise employees will be considered to have taken part in the industrial action and pay will be withheld accordingly.
- 6.3 If an employee has not participated in the industrial action but they have not responded to confirm this, and pay is withheld, they must notify the Human Resources Directorate as soon as possible. Arrangements will then be made to reimburse any pay that has been withheld as soon as reasonably practicable.
- 6.4 The trades unions may advise on pension implications for employees participating in industrial action or employees should themselves seek information on their pension options if they intend to take part in strike action.
- 6.5 There is no obligation for the University to pay any sums withheld from an employee following the conclusion of industrial action, or confirmation from them that they are no longer taking part in industrial action.

## 7 Annual Leave during Industrial Action

- 7.1 Annual leave may be requested for industrial action dates. This leave request will be reasonably considered in line with University procedures by the line manager and authorised if possible depending on operational requirements.
- 7.2 If an employee has been identified as taking part in industrial action, but has already booked annual leave which coincides with the industrial action, they will be entitled to be paid at full pay for the period of authorised leave. In such cases, individual employees will be responsible for notifying the Human Resources Directorate who will seek confirmation from the relevant line manager before notifying Payroll.

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