

## BRANCH BRIEFING: JUNE 2011

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# USS: Planning industrial action

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### **1. The specific features of this industrial action campaign**

Members are being balloted for industrial action on the employers' imposition of their detrimental changes to the USS pension scheme.

One of the reasons for re-balloting members is that the industrial relations landscape has changed. The employers' actions in refusing to negotiate and in using threats of legal action to force UCU's negotiators into the USS JNC have made it clear that a strategy based on negotiation and one-day strikes is no longer appropriate.

That's why we are re-balloting for a mandate to take further strike action and further action short of a strike. This gives us the chance to make clear to members what we believe will be necessary to move the employers. It also gives us the chance to make clear the benefits and risks of the actions involved.

Members are being advised that while further strike action may be called, we will be calling on members to take various forms of action short of a strike and various forms of demonstrative action.

- The benefit of this is that it will almost certainly cause greater disruption to the functioning of the universities.
- The risk is that the employers may use existing case law to make punitive deductions for partial performance.

Our difficult job is to minimize the risk to our members, making it as difficult as possible for the employers to move quickly to punitive deductions without appearing draconian and inflaming the situation, while ensuring that our action is having an impact over time.

### **2. The crucial role of branches**

We want to ensure maximum membership engagement in the action and we are aware that different branches have different views about what exactly will guarantee this.

That's why we are asking branches to work with their Regional Offices to develop a programme of industrial action that begins during induction week and continues into the new term.

The action can be discontinuous, involve combinations of forms of action and can change over time. Branches should look to develop programmes that are sustainable.

We are also asking branches to organise demonstrative and non-industrial disruptive actions to support their programmes.

However, your Regional Officials will have to help you to comply with legislation relating to industrial action by serving the appropriate notice, so it must be planned.

Similarly, the union will be coordinating, supporting and publicizing the action wherever possible using

our Live Blogging tool, so it’s important that we know what’s going on.

**The support you can expect**

Your regional officials and the HE team will work with you to ensure that your legal obligations in serving notice are met.

The Campaigns Team will provide a suite of new campaign materials to help branches publicise and win support for their action, as well as coordinating action wherever possible and publicising it nationally and within the union.

**3. Forms of industrial action we will be calling on branches to consider**

**The first action**

In order to make the ballot live, this must be a form of action that can embrace everyone covered by the ballot.

Once the ballot closes the national union will make a national call to take industrial action covering all members. The form of this action will be determined once the ballot closes.

Following the first action, branches should initiate locally developed plans of action. Please find below a non-exhaustive list of action that can be taken.

**General principles for branch action programmes**

Branches should look to develop action plans that are sustainable and that escalate the action over time. We must be clear that action short of a strike risks punitive deductions for partial performance.

Our task is to develop action programmes that cause disruption but that make it difficult for managements to make deductions without appearing unreasonable and punitive.

**UCEA’s guidance to institutions**

In 2009, UCEA issued guidance to their institutions laying out their recommended responses to partial performance. In this guidance they differentiated between more and less serious forms of partial performance. More serious forms related to ‘serious breaches of contract’, including those actions which ‘disrupt the core business of the university —admissions, marking, examinations, library and IT services, quality audits’. In such cases, UCEA recommend that 100% of pay should be withheld.

However, UCEA also advise that universities may wish to distinguish a range of less serious activities for which it recommends only 25%

deductions. These include refusal to take part in management processes such as appraisal, disruption of residential and catering services, refusal to carry out admin or research duties where they form a minor part of a role.

This is obviously a grey and complex area, but it is clear that there is a tier of actions that would place universities in some uncertainty about whether and on what scale to deduct pay.

**What action branches can take**

Below we have created a non-exhaustive list of the kinds of action we would like branches to consider taking. We have classified them broadly by the level of ‘risk’ they involve. Risk here should be taken to mean risk of incurring a response from management in terms of pay deductions.

ACTION	RISK LEVEL
<b>Refusing to work beyond contract/ withdrawal of good will</b>	
working to contracted hours, where they are stipulated	Low
no cover for absent colleagues	Low
no out of hours cover	Low
no weekend working	Low
<b>Targeting academic administration</b>	
non-attendance at course meetings	Low
non-completion of administrative tasks around committee meetings	Low
non-attendance at appraisal meetings, non-fulfilling of quality assurance process tasks	Low
boycotting TRAC administration	Low
boycotting research assessment administration	Low/Medium
<b>Targeting admissions procedures</b>	
refusing to take part in interviews	High
boycotting open days	High
refusing to undertake admissions administration	High
<b>Targeting assessment</b>	
boycotting postgraduate student assessment processes	High
a full marking ban	High
not setting exams that contribute to the final degree mark	High
<b>Strike action</b>	
Campus wide strikes, one or more days	High
Discontinuous or department-by-department strikes	High

## Non-industrial demonstrative and nuisance actions

Action short of a strike can be a ‘slow burn’ and leave people feeling isolated, while strikes mean the definite loss of a full days’ pay. It is a good idea to focus on raising morale and fostering the feeling that people are in it together by holding demonstrations and protests wherever and whenever possible.

The general sense of disruption can also be enhanced by undertaking nuisance actions.

Branches should look to include in their action programmes as many forms of demonstrative and nuisance action as possible and the Campaigns Team will do everything possible to support these.

Branches could consider any or combinations of the following non-exhaustive list:

- mass demonstrations
- smaller ‘flash’ demonstrations
- mass, irregular or viral letter writing or emailings to the Vice Chancellor/Principal
- amending email signatures showing pension detriments to members, VC pension and salary rates etc.
- letters to papers
- pension fire alarms at specific times of the day where members leave the building and assemble near the finance office or vice chancellors office
- leafletting events among students with messages for students and parents
- rolling protests - where members sign up for short shifts to hold placards about the pension dispute somewhere public
- days where campus facilities or utilities are boycotted and declared closed because of the pensions dispute
- all members to ask their finance department to calculate their pension entitlement
- pension protests to block parking spaces
- hold pension clinics at key times to clash with university events.

## 4. What branches should do now

Please discuss this with your committee and liaise with your Regional Officials now as a matter of priority to establish what action your branch/LA intends to take. Please ensure that you have established a provisional plan with your Regional Officials by July 15.

Your Regional Official will then liaise with head office. This will assist head office in developing a comprehensive view of action being taken across the sector, ensuring that the union fulfils its legal obligations in terms of notice to the employer and that we can publicise and resource your industrial and demonstrative action campaigning most effectively for maximum impact.

If branches are unable to provide their own plans for approval, the national union will issue a call for them to undertake a template action programme.

Make sure also that you hold a general meeting at which you win support for your programme, in advance of the ballot closing on 14 September.

## 5. Appendix: UCEA guidance on partial performance

UCEA recommend that all universities adopt the following approach to dealing with industrial action involving partial performance:

- Advise all staff clearly and unambiguously in advance that partial performance will not be accepted and that pay will be withheld.
- A distinction can be made, if a university wishes to do so, between less or more serious forms of action which breach the contract of employment, and a lower pay withholding tariff used for the former.
- It is clear from case law however, that pay may be entirely withheld when there is any material failure to perform part of the contract.

11. UCEA identify the following as examples of less serious action which could justify a less than 100% pay withholding:

- refusal to take part in management processes, such as appraisal
- disruption of residential and catering services
- refusal to carry out admin or research duties where they form a minor part of a role.

Such cases might warrant withholding at 25%.

12. For all serious breaches of contract which disrupt the core business of the university – admissions, marking, examinations, library and IT services, quality audits – UCEA recommend that 100% of pay should be withheld. UCEA propose to give specific advice to institutions on both the level of a recommended percentage and whether 100% withholding of pay is being recommended, as soon as the nature of any partial performance is known in a future dispute situation. ■