

GUIDANCE TO SCHOOLS ON INDUSTRIAL ACTION – JANUARY 2023
To: All Headteachers

The National Education Union (NEU) have confirmed that they will be calling on teacher members to take part in strike action over the dispute they have on pay and funding.

The proposed strike days that will affect schools in Ealing are:

Wednesday 1 February 2023

Thursday 2 March 2023

Wednesday 15 March 2023

Thursday 16 March 2023

Only teacher members of the NEU are being called upon to take strike action. Staff who are members of other unions and staff who do not belong to a union should not be taking strike action.

Dept for Education (DfE) Guidance

The DfE has already circulated to schools its guidance on handling strike action in schools, see this link - [Handling strike action in schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/handling-strike-action-in-schools)

This guidance covers many considerations for schools including:

- Deployment of staff
- Impact for staff taking strike action on continuous service and pensions
- Remote education
- The law on trade disputes
- School meals
- Exemptions

In line with DfE guidance, schools are asked, if possible, to prioritise attendance (partial/full) for the most vulnerable pupils. These may include pupils with EHCP's, LAC/Child Protection pupils.

Ascertaining the impact of Industrial Action on the School

It is for the Headteacher to establish the impact of any industrial action on the school. There is no requirement for staff to confirm if they are taking strike action, however it is reasonable for the Headteacher to ask staff to confirm if they are taking strike action which then allows the school to plan and to notify parents/carers of any potential school or class closures. Staff who are asked this question may refer the Headteacher to the school-based NEU representative for a response.

The headteacher should undertake a risk assessment once it is known that the school may be subject to industrial action. The risk assessment should be used to inform a decision on whether the school will remain open, partially open or whether it will have to close as a result of the industrial action.

The risk assessment would include considering:

- whether there is adequate staffing cover for pupils and adequate supervision at break and lunchtimes
- first aid cover
- any other health and safety issues

The headteacher, in consultation with the Chair of Governors, should then decide whether the school will be subject to any closure as a result of the industrial action. **The Local Authority would encourage schools to keep open wherever possible**, subject to not compromising any health and safety issues.

If a decision is taken that the school should be closed or partially closed on the day of strike, then it would be appreciated if this could be confirmed in an email to Raj Chowdhury (ChowdhuryR@ealing.gov.uk) and copied to Mark Nelson in schools HR (mnelson@ealing.gov.uk)

Headteacher on Strike

The headteacher, if a member of the NEU, may also be taking strike action and if they are, they may look to delegate leadership duties on the day of strike to another member of the leadership team (e.g., the deputy head teacher), assuming that the school is open or partially open and that the other member of the leadership team is not taking strike action themselves.

If the headteacher is taking strike action they should confirm this to the Chair of Governors, although as with other staff there is no mandatory requirement for them to do so.

If the headteacher is taking strike action they should still support the school in preparing for the day of action, including communications that may need to go to parents/carers and the work that can be undertaken by non striking staff whether the school is open or not.

Action before the Day of Strike

The Governing Board can consider writing to staff (particularly those that are members of the NEU):

- a) encouraging them not to take strike action to maintain the continuity of education for pupils at the school
- b) advising those that take strike action that a deduction of salary will be made to reflect the fact they are taking strike action
- c) reminding staff who are not members of the NEU that they are not covered by the ballot and should not be taking strike action

Schools HR can advise on a template letter to be used if your school wishes to write to staff in this way.

If the school is to be closed, partially or fully, parents and carers will need to be notified at the earliest opportunity.

The school should consider the potential impact on employee relations at the school before asking others to undertake the work of staff taking strike action. Internal colleagues are unlikely to be willing to cover and should not be required to do so, although they may volunteer.

The issue of preparing work for remote education is covered in the DfE advice. If you ask staff who are taking strike action to prepare any remote learning materials for use on the day of the strike, they may refuse and seek the support of the local NEU.

The school should also plan for work that can be undertaken by staff who are not striking (assuming that their normal duties are disrupted by the industrial action). This will include consideration of whether they will be able to work on site or not. If the school is completely closed and it is not practical to open up for non-striking staff, then the only options would appear to be working from home or from another site/establishment. Staff who are available for duty but cannot be allocated work should not be penalised and should receive pay as normal for the day of strike.

The Day of Strike

A school may experience picketing from employees who are taking strike action and we have been informed by the local NEU that they will be advising members in all schools to hold picket lines. If the school is open, employees attending for work should make a reasonable attempt to cross the picket line. If they refuse to cross the picket line, "such employees can normally be regarded as being on strike and treated accordingly" (LGA guidance). We read this to mean that they are on strike for pay purposes and this would lead to the deduction of a day's pay for that employee. In the very unlikely event that there are any incidents of abusive behaviour, intimidation, obstruction of the highway or violence they should be addressed, action (under the relevant procedure) considered and serious cases reported to the police.

The school should maintain a clear record of which staff took strike action and which staff reported for or were available for duty that day.

Schools who use the council's payroll system will need to enter the details of striking staff directly onto the I Trent system. Could you please ensure that this happens as soon as possible after the strike so that pay adjustments are made. The deduction made will be 1/365 of the annual salary in accordance with the provisions of the burgundy book.

Those who use alternative payroll providers should notify them at the earliest opportunity to deduct pay for staff taking strike action. This is a fluid situation and if there are any necessary updates to this guidance, they will be made, and the guidance reissued.

If you do have any query about this guidance or any related issue, please do not hesitate to contact us in the Schools HR Consultancy Team:

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