

Date: 28th June 2016
Enquiries to: Duty HR Caseworker
Tel: 01473 265440
Email: hrcasework@schoolschoice.org

To: Heads of all Suffolk LMS Schools, PRUs and Highfield Nursery
Chairs of Governors

LMS Document No. 2016/14

Dear Colleague

Re: NUT strike action 5 July 2016

The NUT has confirmed that they will be taking strike action on 5 July 2016.

Union members have the right to strike, their ballots having been conducted within the rules governing strike action, and the County Council therefore respects their right to take industrial action as it has done with other unions on other occasions, but also recognises the importance of education for each pupil with every day making a difference to their achievement.

The purpose of this letter is to set out practical guidance for school leaders to give you the maximum possible time for planning. We know that the school workforce is extremely professional and that you, as the headteacher, will be endeavouring to support pupils as well as your staff.

Practical considerations

Headteachers need to manage the operational aspects of the strike. Any headteacher, including those who are a member of the NUT and who are intending to take strike action on 5 July, must ensure that the following operational and management responsibilities are addressed:

- (i) In order to plan for the health, safety and welfare of pupils, headteachers have the right to ask NUT members at their school intend to strike or not on 5 July in order to make appropriate contingencies. There is no obligation on the staff to declare their intention but from the point of view of pupil welfare it is hoped that they will inform their headteacher.
- (ii) In the light of the information gathered, headteachers will need to assess the likely impact on the school. In the event that the school needs to close, those staff who intend to strike will have a day's pay deducted (see 'Other Considerations' (vi) below). All other staff will be expected to report for work. Schools will need a mechanism, in advance, to identify those staff who are not striking and who would have been at work, but for the strike. These people will not have a salary deduction, because they are not on strike.

- (iii) Headteachers will need to manage communications with parents and carers to keep them informed of any disruption, such as school closure or the cancellation of any after school activities.
- (iv) Headteachers should discuss with their Chair of Governors the likely impact of the industrial action and the need to close the school if necessary. They should also inform the Local Authority, via Sue Baker on the number listed below, of any decision to close or partially close the school. Sue Baker will maintain a list of school closures and this information will be made available to the council's Communications Team:

Sue Baker: 01473 263942

- (v) Any headteacher who is planning to take strike action must be mindful that the School Teachers' Pay and Conditions Document includes the provision that deputy headteachers are required to undertake the professional duties of the headteacher in the headteacher's absence.

Paragraph 50.2 states: "... If the headteacher is absent from the school a deputy headteacher must undertake their professional duties to the extent required by the headteacher or the relevant body or, in the case of a foundation, voluntary aided or foundation special school, the governing body."

Clearly, it is possible that the deputy head in a school will also be on strike on 5 July. However, where the headteacher is taking part in industrial action but the deputy head is not, the governing body should consider whether they wish to require the deputy headteacher to perform the head teacher's duties in accordance with paragraph 50.2, bearing in mind the need to keep the school open wherever possible.

Currently, this provision only applies to deputy headteachers.

- (vi) Parents should be advised to check the [Suffolk County Council Website](#) or the local radio station. Clearly it will be important to make any decisions as early as possible so that parents can be informed at the earliest opportunity.
- (vii) Headteachers need to consider whether to impose a "ban" or "restriction" on sickness absence for 5 July. Exceptions to this policy would be those union members already absent on certificated sick leave, and those whose sickness absence on the day of the strike is covered by a GP's certificate. If the headteacher decides to impose this policy the staff need to know as soon as possible.

Informing Payroll about staff who take strike action

- (i) Headteachers need to notify Payroll with details of all staff who took strike action in order that deductions from pay can be made. Further information is set out at Appendix 1 to this letter. The adjustment to pension brought about by the absence will apply automatically.
- (ii) Schools that do not use SCC's Payroll Services must ensure that they notify their own Payroll provider, so that the appropriate salary deductions can be made.

Other considerations and points to note

- (i) Schools may be subject to picketing. Staff, other than those who have been balloted by their union, who refuse to cross picket lines will not have been balloted and are therefore regarded as taking unofficial industrial action.
- (ii) Where it is known that non-attendance is in support of the action, a similar deduction from pay will apply and headteachers need to notify Payroll accordingly (see section above). It is however common practice for unions to ensure that picket lines are orderly and fall well within the legal constraints. Similarly, unions not taking action are likely to have notified their members not to take unofficial action.
- (iii) Headteachers may wish to confirm the main points of this guidance to staff intending to take industrial action by way of individual letter. A template is attached at Appendix 2, which you can modify to suit your local circumstances.
- (iv) It is not lawful to cover striking workers by engaging temporary staff as direct cover for days of industrial action. To substitute striking members with supply staff is therefore not an option, otherwise the school will be liable to legal challenge from the unions.
- (v) The other unions are likely to advise their members not to undertake cover for striking colleagues if requested by their school. Consequently, unless staff volunteer to undertake additional duties, pressing the point is likely to lead to further problems and headteachers are advised to seek alternative remedies.
- (vi) Staff who strike are in breach of contract and therefore will be deducted a full normal day of their annual pay. For teachers, a day's pay is defined as 1/365th for unpaid leave of absence which includes industrial action.
- (vii) If staff work for part of the day, they will lose a whole day's pay. Headteachers therefore need to ensure that staff who are union members are aware that they will lose a day's pay if they go on strike.

For queries related to the record sheets please contact Payroll on 08456 05 3000, then choose the Payroll option.

For any HR related matters please contact the Duty HR Caseworker on 01473 265440, or your named HR Caseworker.

Yours sincerely



Libby Wragg
Schools' HR Casework Team Manager

Appendix One

Notifying Payroll

To allow for the recording of staff taking strike action, an additional column has been added to the monthly "Record Sheet" spreadsheet that you fill in. This is the final column (column O) which is titled "Strike (Days)".

To complete the information in the spreadsheet, please first enter the day of strike in the "Absence Start Date" column (column H) and then in the final column enter 1, which denotes a whole day's breach of contract. For support staff whose normal working hours vary across days of the week, please notify the payroll team separately (at payroll@schoolschoice.org) of the hours that would have normally been worked that day in order that an appropriate deduction can be made.

There is no need to fill in any other columns within the spreadsheet. Thus, columns I through N will be blank.

Please note that the Local Authority's advice that anything other than full performance of duties constitutes a breach of the employee's contract and therefore should result in the deduction of one day's pay.

In the week commencing 25th July Payroll will forward to you the updated spreadsheet for recording absences in the month of July. Deductions will be taken from the August pay. Please ensure that the amended spreadsheet is used, otherwise the deduction from pay may be delayed.

Please note that if you use a different Payroll provider, you must notify them so that the appropriate deductions can be made.

Dear colleague,

NUT strike action on 5 July 2016

As you know, the NUT are planning a strike on 5 July, and as a NUT member you have every right to take part in that action. Every school affected by the strike will need to consider contingency plans to cover the health, safety and welfare responsibilities towards pupils and all headteachers will be managing this over the next couple of weeks.

As you can appreciate, the welfare of pupils is a major concern and I am asking you to confirm whether you intend to take strike action. Whilst you are not obliged to declare your intention, I am sure you can appreciate that this would be in the best interest of the pupils.

The strike action is being taken by the NUT and does not directly involve other recognised unions.

During strike action, it is not lawful for an employer to engage temporary staff to cover the work. No supply staff will therefore be employed to cover members who are on strike, and no other teacher will be required to cover that work either.

If you intend to take strike action on 5 July, there will inevitably be an effect upon your salary and pension of which you need to be aware. The main points are as follows:

- (i) to strike is a breach of contract and you will therefore lose one day's pay. This is defined as 1/365th of your annual salary;
- (ii) if you are a member of the Teachers' Pension Scheme, absence due to industrial action is not classed as pensionable service and there are no provisions for buying back the day lost;
- (iii) if you are absent on sick leave on 5 July you will need to provide a GP certificate to receive sick pay for that day.

I hope that this letter covers the main points for you but please contact me if anything is unclear

Yours faithfully

Name

Headteacher