Guidance for Managers, Headteachers and Human Resources staff in the event of industrial action

Industrial action can take two forms - strikes or action short of a strike which can include:

- Only working contracted hours.
- Only doing work specified in job descriptions.
- Refusing to work any standby duty (if voluntary).
- Refusing to do voluntary overtime.

In order for the industrial action to be legally protected a ballot must have taken place beforehand.

If you require this guidance in another format please go to the end of this document for details.

Information for Managers and Headteachers

Before the strike:

- As a manager/headteacher you should make your staff aware that if they do participate in strike action they will be in breach of their contract and will not be paid.
- Staff should be made aware that each day of strike action will not be counted towards continuous service calculations in relation to qualifying periods for certain statutory contractual rights and benefits. There will also be an impact on the contributions made to their pension scheme (Local Government or Teachers’ Pension) as each day of strike action is not reckonable for pension purposes.
- Managers/headteachers should inform staff that if they want to come into work but are prevented from doing so at the picket line they should call their manager immediately to make them aware of the situation. Failure to cross a picket line will result in a deduction from pay.
- Managers/headteachers should find out in advance which members of their teams are likely to take strike action and make contingency plans accordingly.
- Prior to any action, the relevant Directorate Management Team in conjunction with their HR Business Partner should try to minimise disruption by forewarning KCC of areas likely to be affected. Headteachers should inform the Area Education Officer (AEO) prior to the day of industrial action of the potential impact on their services, especially where this might result in closure or partial closure of a school.

During the strike:

During industrial action the primary responsibility of managers and headteachers is to keep services/schools open and operating satisfactorily.

- Staff who attend work should, within reason, be asked to cover essential services.
• It is not lawful for an agency to supply temporary staff to provide direct cover for staff participating in industrial action, e.g. supply teachers via an agency, but you are able to deploy casual staff if they are within a bank of staff directly employed by KCC or the school.

• KCC managers should inform Employee Services and the HR Advisory Team on the day of action of the names of staff who have decided to take action. Headteachers should inform their Area Education Officer, by e-mail, of the numbers of staff taking strike action.

• Details of KCC staff who have taken strike action and the type of action taken should be sent to Employee Services to make the appropriate deductions from pay. For every day of action a fifth of a week’s pay will be deducted (pro rata for part day action). Details of staff for whom pay is being withheld in schools should be sent to the school’s Payroll provider who will make the appropriate deductions. The deduction from pay for support staff in schools is as above. Pay deductions for teachers will be made on the basis of 1/365th of a year’s salary for each day of action (pro rata for part days).

• KCC managers should advise the HR Advisory Team if industrial action taken is different from that for which union members were balloted and headteachers should advise their Personnel provider if this situation arises.

• Staff participating in strike action should only picket at or near their place of work. Any unknown persons at pickets should be reported to the HR Advisory Team or to the school’s Personnel provider, as applicable.

• Misconduct by those individuals taking strike action will, if appropriate, be managed in line with KCC’s Disciplinary Procedure or the Schools’ Disciplinary Procedure, as applicable. The HR Advisory Team or the school’s Personnel provider, as applicable, should be notified of any such incidents.

• In the event that the dispute is in the local workplace, all steps should be taken to work towards a mutually acceptable settlement.

• Staff who do not participate in strike action should not be granted annual leave during the strike period. Similarly, annual leave requests should not be granted to an individual who is taking strike action.

After the strike:

• Staff have the right to voice their opinions through strike action and should not be victimised for doing so; it is unlawful to treat someone less favourably who has taken part in strike action.

• All sickness on the days of strike action should be followed up in line with normal policy. A doctor’s certificate may be requested if there is reason to believe the individual has taken strike action.

Action short of a strike:

• Where staff are taking action short of a strike and it is clear that they are not working to the requirements of their contract they can be sent home or have pay deducted. However, this can sometimes be difficult to determine when staff regularly undertake duties outside their job description.

• Managers/headteachers should consult the HR Advisory Team or their Personnel provider, as applicable, if they are considering sending an employee home and/or
withholding pay for failing to undertake their contractual role in the event of action short of a strike.

**Alternative Formats**

This document is available in other formats. Call 01622 694778 or email Employment Policy Team for further details.

**Connect2Kent** interpreting and translations services can help explain services to people if their first language is not English if you call 0845 365 1645. An English-speaking operator will take details of your requirements and arrange a translation or interpreting service. You may need an English-speaking friend or a family member to help you with this.

For Text Relay please call 18001 03000 41 41 41