

Designated Officer: Director, Human Resources

Date Reviewed: June 2013

## 1. Purpose

The University recognises that University staff have the right to take lawful industrial action in accordance with the Fair Work Act 2009 (the Act). The University must also continue to operate and provide quality services to its students, customers and clients during periods of industrial action. These guidelines have been developed to accommodate the obligations of the University to students and the wider community and to meet the requirements of the Act.

## 2. Application

These Guidelines apply to all University staff.

## 3. Principles

Staff will not be paid for lost time for any scheduled work period where they participate in industrial action. No staff will have their pay debited if they attend work and perform their full duties.

### 3.1 Protected industrial action

It is unlawful to harm or disadvantage staff in their employment because they have participated in protected industrial action. However, unprotected industrial action exposes staff to the possibility of penalties both at common law and under the Act.

Industrial action is only protected if it occurs after the nominal expiry date of a workplace agreement, after the industrial action has been authorised by a ballot, and following written notice to the University of industrial action. Industrial action taken by non-union members will in most, if not all, cases be unprotected.

### 3.2 Types of industrial action

Types of industrial action include strikes, bans and stop work meetings. This can include any of the following kinds of actions:

- the performance of work by a staff member in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by a staff member, the result of which is a restriction or limitation on, or a delay in, the performance of the work
- a ban, limitation or restriction on the performance of work by a staff member or on the acceptance of or offering for work by a staff member
- a failure or refusal by staff to attend work or a failure or refusal to perform any work at all by staff who attend work
- the lockout of staff from their employment by the University

It does not include action by staff that is authorised or agreed to by the University or action by staff if the action was based on a reasonable concern by staff about an imminent risk to their health or safety.

#### 3.2.1 Strikes

A strike is a collective withdrawal of labour, of varying duration, during which staff refuse to perform all work.

#### 3.2.2 Bans

Bans are a form of industrial action and include staff refusing to perform certain duties. Bans commonly include:

- recording or transmitting of exam results
- participation in work allocation meetings
- working overtime
- communicating with senior staff of the University
- involvement in other institution specific programs or initiatives

#### 3.2.3 Stop Work Meetings

An unauthorised stop work meeting is effectively a short strike, and time spent at a stop work meeting that would normally be work time will be unpaid.

The University can however, choose to allow staff to attend a union meeting in work time, such as a meeting convened to consider a proposed Bargaining Agreement or to lift industrial action.

A meeting like this does not constitute industrial action. Likewise, a meeting held during a lunch break or out of ordinary hours does not constitute industrial action.

### 3.2.4 Picket Lines

Staff should make every reasonable effort to enter the campus but if prevented from doing so, they should report to the supervisor or manager of their area by telephone as soon as possible.

The University will monitor the behaviour of picket lines and will attempt to ensure that unreasonable behaviour is minimised or eliminated.

Staff members wishing to cross a picket line should be able to do so and should not engage in any altercation with picketers.

Drivers of motor vehicles must not attempt to speed or drive aggressively through a picket line and should under no circumstances drive their vehicle in a way that threatens or causes harm or injury to any person.

### 3.3 Payment during industrial action

Other than with respect to partial work bans, it is unlawful to pay staff and unlawful for staff to accept payment during periods they are taking industrial action. If partial work bans are imposed, it is open to the University to (i) direct that the staff member perform no duties on that day and not be paid at all whilst the bans remain in place, (ii) reduce the staff member's pay commensurate with the bans imposed, or (iii) refrain from reducing the staff member's pay.

### 3.4 Leave during industrial action

Supervisors have a responsibility during periods of industrial action to ensure that operational requirements continue to be met and that staff who are not participating in industrial action attend work.

If a leave arrangement is made and approved well in advance of the industrial action, the arrangement should not be cancelled.

In other cases, supervisors should not approve any form of absence from work, including work from home arrangements, leave applications, and other short term leave unless the supervisor is satisfied that:

- operational requirements will be met
- the proposed arrangement is not designed to avoid obligations to attend work during periods of industrial action
- sick leave applications are supported by a medical certificate.

### 3.5 Responsibilities of staff and supervisors

Unless they are participating themselves in the industrial action, supervisors are responsible for minimising any disruption to the normal work of the University. This includes:

- advising other staff of their rights and responsibilities
- advising students of teaching and other arrangements during a period of industrial action
- ensuring that the staff they supervise are correctly paid during periods of industrial action
- reporting as directed on any aspect of the industrial action.

The University can give appropriate directions to staff and supervisors to identify which staff have participated in industrial action.

### 3.6 Superannuation during Strike Periods

Staff participating in a strike will not have superannuation contributions made for the period they are on strike as this is not approved leave, therefore no employee or employer contributions will be remitted to UniSuper on behalf of these staff.

Staff members will have the option of maintaining both employee and employer superannuation contributions for the period of a strike, but the option to maintain employee contributions only will not be available.

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