

2014 NJC Pay Dispute

Industrial Action – Members' Frequently Asked Questions (FAQs)

UNISON is urging members in local government and schools to vote yes to strike action for improved NJC pay rates, following the refusal of employers to meet the union's pay claim. The employer's side of the NJC refuses to re-negotiate on their 1% final offer. Some members will have questions about taking part in industrial action and below are answers to some frequently asked questions (FAQs)

Please ensure that you circulate this document to your branch activists and NJC pay champions.

What's happening, what does it mean — Why are we striking?

1. Why are we balloting for Industrial action?
2. Is our claim affordable?
3. What stage are negotiations at?
4. Why strike action?
5. Will the strike make the employers change their mind?
6. Why is UNISON taking action on pay when we haven't on cuts?
7. What are other unions doing?
8. What happens after the day of action on the 10th — will there be more strikes?
9. How can I help get our message out better?

I want to strike but I'm worried about....

10. I can't afford to strike. Money is tight at the moment
11. What about the clients and pupils I work with? They are vulnerable — I can't let them down

12. I am facing redundancy. Won't going on strike make it more likely I am made redundant?
13. Am I breaking my contract by taking strike action?
14. My employer is saying that a one-day strike would be seen as a break in service and that my continuity of service would be broken — is this true?
15. If I strike will that make my service be more (or less) likely to be outsourced?
16. I'm in my first 12 months of employment — what are my rights?
17. What if I'm part time?
18. What if I'm on sick leave?
19. What if I take annual leave?
20. What about if I'm pregnant, in my last year of service or receiving state benefits?
21. Are my pension contributions affected if I take strike action?

Why should I strike when.....

22. Won't more pay mean more jobs and services have to go?
23. The government won't change its pay policy, will it?
24. Do I have to strike?
25. Would I still have to strike if I voted 'No'?
26. What should I do during a strike?
27. What if I have external work commitments?
28. What is the law on picketing?
29. What are the guidelines on picketing?

About the Ballot

30. Why do we need a new ballot?
31. Will I get a vote?
32. What's the ballot timetable?

- 33.** How will the results of the ballot be counted and notified?
- 34.** Are other unions balloting for action?
- 35.** If members vote 'yes' to industrial action, what happens next?
- 36.** Do I have to tell my employer if I am going on strike?
- 37.** Will I lose pay and if so how much?
- 38.** Will I receive strike pay for striking on 10 July?
- 39.** I'm not a member yet - can I join now and still take part in the proposed action?
- 40.** What should I do if I'm not involved in the ballot or any action?

What's happening, what does it mean — Why are we striking?

1. Why are we balloting for industrial action?

The Trade Union Side claim this year to the NJC was designed to call a halt to poverty pay in local government and schools.

The trade unions are seeking a minimum of £1 an hour for employees on NJC terms and conditions to make the Living Wage rate the bottom pay rate in local government and because everyone on NJC pay is low paid for the jobs they do - the same flat rate increase on all other pay points.

The Living Wage has increased by 20p since we submitted the claim. This means in effect our claim is now £1.20 an hour on all pay points.

The NJC employers have offered 1% to the 90% of the workforce on scp 11 and above. Those on scp 5-10 have been offered slightly more than 1% to keep their pay levels just above the National Minimum Wage. There is no sign that employers will be prepared to meet the union's demand.

Local government workers have already endured three consecutive years of pay freezes, followed by a below inflation settlement in 2013. For most of the workforce this year's offer will be a further pay cut, leaving their pay reduced by almost 20% since the Coalition came to power.

At the same time, local government reserves have risen to over £19 billion. That means that councils have chosen to bank money, rather than reward the very people who are keeping their council services going – our members.

Our members decisively rejected the measly offer in our pay consultation and signalled that they understand the need for that rejection to be backed by a commitment to firm industrial action.

2. Is our claim affordable?

Local government and school pay is now so poor that many workers have to rely on tax credits and benefits. It makes far more sense to pay this money as wages. Extra taxes and National Insurance to the Treasury will fund over half our claim. Higher wages will lead to more local spending and boost local businesses. It will ensure a recovery that is fair and sustainable as the economy begins to grow again.

3. What stage are NJC negotiations at?

The local government employers have said that their pay offer is 'non negotiable.' They have also refused to take part in any arbitration talks through ACAS as provided for in the NJC collective agreement.

4. I don't agree with the pay offer – but why strike action?

UNISON stands ready to enter further negotiations at any point, as do the other unions. However, the employers are in a very entrenched position and only strike action – or the threat of it - is likely to move them to make an improved offer. A high turn out and a high number of 'Yes' votes in the ballot may well make them see sense and start negotiating seriously.

5. Will the strike make the employers change their mind?

We certainly hope so and would not ballot ask members to strike if we didn't think so. We are not a posturing or strike happy union —far from it. Strike action has always been a last resort in trying to force employers to negotiate more seriously. On the rare occasions that we have gone on strike across the local government sector in the past we have made gains on previous proposals. Although there is never a guarantee of all our demands being met, demonstrating the strength of feeling about our pay is vital.

One of the most important things will be to get a very big turnout and a very clear "Yes" vote in the ballot. A low turnout would allow the employers to suggest that even our own affected members aren't that bothered by the attack on their pay. A strong turnout in the ballot will give a message in itself about the strength of feeling over these attacks. This will strengthen our hand in negotiations with the employers and government ahead of any planned action. It puts members in a better position to defend attacks on jobs and conditions. A low turnout could make employers and government even bolder in their attacks on the workforce in future.

6. Why is UNISON taking action on pay when we haven't on cuts?

The cuts are being implemented locally and therefore disputes have had to be local disputes — there have been local strikes and industrial action around the effect on terms of employment as the cuts directly affect employees locally.

7. What are other unions doing?

We are not alone – both UNITE and GMB are also balloting over possible action.

8. What happens after the day of action on 10 July — will there be more strikes?

This day of action is part of a programme of strike action we are planning if the employers don't improve their offer.

9. How can I help get our message out better?

The media can be very biased sometimes and do not give the full picture. UNISON and other trade unions will be doing everything in their power to ensure that the public are told the real facts. You can help by writing to your local paper, phoning your local radio station any time there is a phone-in or a money programme, or setting up a stall in your local town centre and

providing leaflets or talking to people. Remember to make sure your own family and friends know that our claim is affordable and political choices can be made.

I want to strike but I'm worried about....

10. I can't afford to strike. Money is so tight at the moment.

UNISON understands your concerns. Council and school workers have already had to put up with a great deal and we are well aware there may be other very pressing difficulties you are being faced with right now on a local or personal level. But it's important to think about what you could gain and the money you need in retirement to support yourself.

Any pay gained through an increased offer may or may not offset what you lose in the immediate term through strike reductions. However, it will be 'paid back' quite quickly because:

- it means that the starting point for ANY future pay rise is higher than it would otherwise be
- the value of ANY future increment is higher than it would otherwise be
- the value of the pension pot accumulating is higher than it would otherwise be

The employers are relying on workers and unions being too weak and too scared to put up enough of a fight against this attack on your pay. We have to show them that they are wrong. If we aren't able to make them re-think their stance, the employers and government will continue to cut your pay and conditions and we may never be in a position to recover the ground we have lost. Falling pay also means loss of pension, which could affect you for the rest of your life.

That's why getting a high turnout and resounding "yes" vote matters!

11. I'm a frontline worker - what about the clients and pupils I work with? They are vulnerable — I can't let them down.

Of course, we understand this concern. Most people work in local government and schools because they care about the service users and pupils they work with and UNISON is committed to the best possible public services for everyone.

UNISON members provide essential services for the community. Therefore it is inevitable that any strike will cause the public inconvenience. This is unavoidable. However, UNISON in taking industrial action will always act in a responsible manner. There will be emergency cover available and the important thing is that it is the employer's responsibility to provide this cover.

Formally, it is the employer's responsibility to explain if services are to be cancelled on strike days. However, your branch and members may wish to talk to service users before the strike. You should explain why the union is taking this action and the implications of the squeeze in your living standards. There is a campaign leaflet to distribute to the public explaining our claim.

12. I am facing redundancy. Won't going on strike make it more likely I am made redundant?

Many members are in a similar position and will share your concerns. However, employees are protected from dismissal during the first 12 weeks of any lawful, balloted, official industrial action. Any dismissal for taking part in industrial action in this 12 week period, regardless of how long the employee has worked, or their age, is automatically unfair unless a tribunal decides the dismissal was not to do with the industrial action.

Employers know this and in the most part are not about to risk breaking the law. However, management may attempt to isolate - or indeed intimidate - individuals or small groups with the view to encouraging strike breaking. There may be threats concerning your careers or of disciplinary action. If this does happen make sure you report this to your Branch officers in the first instance. They will take this very seriously and act upon it.

(Please note there are time limits for making a complaint - normally 3 months less one day -so let your branch know as soon as you receive a threat concerning your career or disciplinary action.)

13. Am I breaking my contract by taking strike action?

Almost all effective industrial action is a breach of your contract of employment. However, UNISON has carried out a lawful statutory ballot. The law protects workers from dismissal whilst taking part in lawful industrial action at any time within 12 weeks of the start of action and depending on the circumstances; dismissal may also be unfair if it takes place later.

14. My employer is saying that a one day strike would be seen as a break in service and that my continuity of service would be broken — is this true?

No. During a strike your continuous employment is treated as 'postponed'. This means that the period you were on strike for will not count towards your continuous employment, but it does not break the continuity of your period of employment.

15. If I strike will that make my service be more (or less) likely to be outsourced?

It is difficult to anticipate the actions of all employers and there is unfortunately a lot of outsourcing going on anyway. UNISON has members working on outsourced contracts and has recognition with most large contractors. Potential bidders for services may not find a strong staff group that is willing to stand up for their rights so appealing to bid for either!

16. I'm in my first 12 months of employment — what are my rights?

Employees are protected from dismissal during the first 12 weeks of any lawful, balloted, official industrial action. Any dismissal for taking part in industrial action in the 12 week period, regardless of how long the employee has worked, or their age, is automatically unfair unless a tribunal decides the dismissal was not to do with the industrial action.

17. What if I'm part time?

UNISON believes that any deduction of pay must be pro rata for part time staff. The deduction must be only for your contracted hours.

18. What if I'm on sick leave?

Workers who are absent on sick leave when a stoppage of work starts retain their right to statutory sick pay during the period of industrial action. If an employee reports sick on the day the action starts, the employer can be expected to make their own judgment as to whether they should be regarded as on sick leave or on strike.

For the purposes of statutory sick pay payable in the eight weeks after a period of strike action, average earnings will reflect the lower earnings during the period leading up to the illness.

19. What if I take annual leave?

UNISON does not regard anyone who takes annual leave on strike days to be participating in the strike action. If you can, we would like you to postpone your leave so that you can take part in any strike action.

20. What if I'm pregnant, in my last year of service or receiving state benefits?

It is common practice for these categories of staff to be exempted if they will suffer longer term financial loss. Speak to your branch.

21. Are my pension contributions affected if I take strike action?

In some strikes (particularly short ones) employers may not withhold superannuation contributions and therefore participation in strike action has not generally affected pensions. Nonetheless, it is a possibility.

If your employer decides to dock your pay for the day of action, the employers do not have to pay pension contributions during that period and you will not have paid your portion of contribution for that day. The impact on your final pension would be extremely small but you might want to consider replacing the lost contribution.

It is possible, with your employer's agreement, to pay a sum equal to the employee and employer contribution and receive full credit for the day's absence and continue to have full cover. Any member wishing to do this must inform their employer in writing before the absence takes place.

Why should I strike when.....

22. Won't more pay mean more jobs and services have to go?

Keeping you pay low will not protect jobs and services. You are doing far more for far less – and working unpaid overtime. But your job is still threatened and less secure than private-sector jobs. Councils say they cut pay to save jobs, but while your pay is held down year after year, jobs still disappear and services continue to be stripped to the bone, privatised or stopped altogether.

23. The Government won't change its pay policy –will it?

The UK is the world's 7th richest economy. We can afford to pay the lowest paid in councils and schools the Living Wage and start restoring the 18% lost pay for everyone else.

The bigger agenda is that we are not all in it together. The government is controlling local government expenditure and driving down pay. The government has cut council funding more than any other sector. You have borne the brunt of these cuts. If the economy is now growing, it's only right that you have your fair share. Pressure can change Government policy. Remember the government's response to the outcry they were not protecting people from the floods? Pickles said 'we've a very rich country' and Cameron added 'money is no object.'

24. Do I have to strike?

As a member of a democratic union we would hope that you would participate in a strike if there is a vote for strike action. You cannot be forced to do so, but it is part of belonging to a democratic union in which decisions are made collectively. We recognise that taking strike action is very serious, which is why UNISON asks you and every other member to observe the strike (if called.) Every member who does not undermines our bargaining power and makes it harder for us to protect all our members.

25. Will I still have to strike if I voted 'No'?

If the majority of the people balloted vote 'yes' and a strike is called, we would hope you would join your trade union colleagues by participating fully in the industrial action, in line with UNISON's democratic decision-making process.

26. What should I do during a strike?

When UNISON calls a strike we ask that you do not go to work, but instead contact your local representative and volunteer to help out on the picket lines. This isn't dangerous and it can be fun, as everyone shows that they are serious and united in taking action.

27. What if I have external work commitments, on the day of the strike?

If your commitments are part of your normal work for your employer, you should not attend them.

28. What are the guidelines on picketing?

Picketing is a legal activity to peacefully persuade members not to go in to work. Pickets should wear an armband indicating they are on duty. Placards and posters should be displayed stating 'OFFICIAL PICKET.'

UNISON's industrial handbook sets out guidelines on picketing. Members registered for My UNISON can see the handbook online at www.unison.org.uk/catalogue/18193

29. What is the law on picketing?

Peaceful picketing is entirely legal. Picketing should be carried out at or near an entrance or exit from a site at which the picket works. When others who are not in dispute come into work or use these entrances or exits, pickets must not interfere with them.

About the Ballot

30. Why do we need a new ballot? Haven't we already made our views clear?

The law says that trade unions are only allowed to call upon their members to take strike action (and thus breach their contracts) if they have taken certain steps first. The most significant of those is to organise a secret ballot, which must take place by post and which must be overseen by an independent body.

31. Will I get a vote?

The strike planned for 10 July is the first phase of a programme of industrial action.

A national ballot where there are thousands of different employers, is extremely complex to organise. We have to make sure that our own internal processes are correct and always have an eye on the very stringent anti-trade union laws that are put in place precisely and solely to make things hard for unions and members. Therefore we have had to make decisions on where to concentrate in the first phase of industrial action. Some types of employers are not involved at this stage.

For the first phase we are balloting:

- Members employed by councils, including craft workers, youth and community workers, chief officers, public health and Soulbury staff. Although some members in the above groups will be covered by separate bargaining arrangements, it is clearly the case that they work

for councils and will be affected by the outcome of the dispute. Their negotiations always take account of the position in the NJC.

- Members who are contractually conditioned to the National Joint Council for Local Government Services pay and conditions. This will include some staff in the Fire and Emergency Planning Services and National Parks, voluntary controlled, voluntary aided, foundation and trust schools.

32. What's the ballot timetable?

The ballot opens on 23 May and the ballot closes at 10am on 23 June. If you haven't received a ballot paper by 29 May, and you think you should be included in the ballot, you can request one online at unison.org.uk/my-unison/welcome or by calling 0800 0 857 857. You should do this before noon on 18 June.

33. How will the results of the ballot be counted and notified?

The results of the ballot of local authority and NJC conditioned members from all branches will be added together to give a single national vote.

Members wanting to know the ballot results can look out for emails from UNISON, ask your steward or branch, phone UNISONdirect on 0800 0 857 857 or check the UNISON website www.unison.org.uk The ballot results will be available as soon as reasonably practicable after the holding of the ballot and that is expected to be no later than 5pm on 23 June.

34. Are other unions balloting for action?

Yes - GMB and UNITE are both balloting their members on industrial action.

35. If members vote 'yes' to industrial action, what happens next?

The first day of action is planned for 10 July 2014, but you should not actually take part in industrial action until called to do so by the union. You and your branch will be notified if any further action is planned.

As always, UNISON will work with your employer to make sure there is emergency cover for essential services where necessary. However, it is for your employer to arrange the necessary cover - if you are needed to provide emergency cover the branch will be in contact.

36. Do I have to tell my employer if I am going on strike?

No, if the day of action is confirmed in a ballot we will officially inform your employer and they should assume that all members will be striking. It is up to them to ask for any exemptions and to provide emergency cover (see questions on exemptions and emergency cover).

Your employer might send you a formal sounding letter asking you to declare in advance whether you will be taking industrial action. You are under no obligation to inform your employer in advance as to whether you will be taking

part in strike action. UNISON is legally required to give employers some statistical information about UNISON members taking industrial action but we do not give individual names.

37. Will I lose pay and if so how much?

Yes, we can expect employers to refuse to pay staff taking industrial action. The law makes it clear that employers can deduct pay when staff are on strike. However, where pay deductions are made these should at all times be reasonable.

If employers decide to deduct pay from those taking strike action, your branch will seek agreement at local level for deductions of no more than 1/7th of weekly income (i.e. 365th of annual income) for a single whole day of strike action. Also that deductions are pro rata'd for people who work part-time or term-time.

38. Will I receive strike pay for striking on 10 July?

Strike pay will not be paid but the union will seek to help members experiencing hardship. Your branch will be able to advise you.

39. I'm not a member yet - can I join now and still take part in the proposed action?

New members can join UNISON, and join the strike (provided that their employer is one of the employers involved in the ballot), right up to and including on the day of action. So if this is the case, the answer is very much YES you can join the strike - you just need to fill in an application form first and hand it to your local steward.

40. What should I do if I'm not involved in the ballot or any action?

If you're not taking part in the strike because you're not part of the dispute (or employees at your employer are not being balloted) you can still support your colleagues who are. Show your support by talking to friends and colleagues about the campaign, writing to your local MP and councillors and your local paper and wearing a sticker on the proposed day of action — 10 July. Ask your branch what's going on in your area!