

Equality and Diversity Impact Assessment – Full Assessment

Title of Policy, Procedure or Function: Pay withholding for action short of strike action (participation in the Marking and Assessment Boycott).	
School/Department: HR	
Author/Position: Tracey White, Senior HR Partner (Reward & Policy)	Date created: May 2023

1. Aims and purpose of Policy, Procedure or Function:

The policy aims to ensure legal, and what is considered appropriate, pay withholding arrangements for staff participating in the Marking and Assessment Boycott which has been called by UCU as part of their dispute on pay. The University's position is based on legal advice, informed by case law, that states that in such situations employers can withhold up to 100% of pay on the basis that staff are in breach of contract as they are not undertaking the full duties of their contract of employment. Further, this is subject to the University being clear that it does not accept partial performance and that any activities that staff do undertake while they are participating in the boycott are on a voluntary basis.

The University has considered its position and has decided that pay withholding will be based on 50% of pay for those participating in the boycott, reserving the right to withhold up to 100% of pay.

50% is considered an appropriate rate at this stage given the potential severity of the impact on students completing their studies/graduating or progressing to the next year of their studies.

The University has also considered how confirmation in the boycott will be managed and has decided that staff self-declaring through completion of a form is appropriate with this then being checked with the Head of School.

2. Stakeholders:

- Staff who may participate in the marking and assessment boycott – this is considered to be largely Academic staff who may be members of UCU. There may also be smaller numbers of Professional Services staff who are members of UCU and who may also participate in the boycott.
- Aberdeen UCU branch leadership
- All students
- University Senior Management Team/University Management Group/Industrial Action Working Group /Court.

3. Consultation/Involvement

- Discussions have taken place at University SMT meetings to determine the University's approach to pay withholding, bearing in mind the legal advice provided and the potentially severe impact on students as a result of staff participating in the boycott.
- Meetings of the University's Industrial Action Working Group have taken place to discuss and convey messages regarding pay withholding.
- Regular meetings with Aberdeen UCU branch leadership in order to convey the University's position and to consider any points that the branch leadership representatives wish to raise on behalf of the AUCU Committee/members.
- Communications have been issued to managers, all staff and students in order to convey decisions regarding pay withholding, notification of participation in the boycott and to provide further information and guidance for staff and students.

Organisation/person consulted or involved	Date, method and by whom	Location of consultation records
SMT	April/May 2023	SMT minutes
IAWG	April 2023	HR
AUCU branch leadership meetings	April/May	HR
Staff and Students	April/May	n/a

a) Brief summary of results of consultation indicating how this has affected the Policy, Procedure or Function

The SMT agreed to pay withholding based on 50% at this stage rather than 100%, reserving the right to withhold 100%. This is on the basis that 50% is considered appropriate given the potential severity of the impact of the MAB on students.

The SMT also agreed that staff should be given every opportunity to submit marking/assessment even where they have notified the University that they are participating in the marking and assessment boycott. This will be done by adjusting timescales/deadlines for staff to submit work should they decide to no longer participate in the boycott up to a final deadline. Thereafter, if staff have submitted the work pay will not be withheld. If they continue to participate and do not submit the work then pay withholding will apply. This is designed to be as fair as possible to staff.

Consideration has been given to how withholding of pay will apply to staff engaged on casual contracts. This has been designed on the basis of being fair and to ensure parity with staff on other contract types.

4. Monitoring
a) Detail method of monitoring of the Policy, Procedure or Function and by whom
The policy will be monitored by the Senior Management Team, Human Resources with any points for consideration also discussed with the UCU branch leadership.
b) Detail how monitoring results will be utilised to develop the Policy, Procedure or Function
The University will consider any concerns arising from implementation of the policy whilst maintaining the right to ensure pay withholding for those participating in the boycott.
c) Timescale of monitoring including proposed dates
For the duration of the boycott as notified by UCU.

5. Impact assessment
a) Detail any potential or actual difference of impact of the Policy, Procedure or Function in each equality strand
<p>It is important to note that the following factors impact on the ability to ensure the appropriate data set is being used to consider the equality impact assessment:</p> <ul style="list-style-type: none"> - Establishing which staff are members of UCU, therefore, may participate in the boycott – appropriately, the University does not hold data according to trade union membership. - Establishing which category of staff are more likely to participate – as marking and assessment activities largely fall as part of the remit of academic staff rather than Professional Services staff. <p>The information provided below, therefore, is based on data for all academic staff and academic (casual only) staff on the basis that it is more likely that UCU members participating in the boycott will be academic members of staff.</p> <p>In addition, it is important to note that the data presented is based on all academic and all casual academic staff, and not just for staff who are members of UCU given the University does not hold information about union membership status.</p>

Ethnic Group

Academic – all staff

Row Labels	Count of Ethnic Group	%
BAME	375	19.7
Information Refused/Not Known	132	6.9
White (blank)	1392	73.3
Grand Total	1899	

Academic – casual only

Row Labels	Count of Ethnic Group	%
BAME	73	16.19
Information Refused/Not Known	60	13.30
White (blank)	318	70.51
Grand Total	451	

We monitored representation of all academic staff and academic (casual) staff showing that by Ethnic Group, the highest proportions potentially impacted are academic staff identifying with a White background with slightly lower impact on academic staff identifying with a BAME background when filtered for casual staff only.

Disability:**Academic – all staff**

Row Labels	Count of Disability	%
Disabled	95	5.0
No disability	1667	87.8
Not known	78	4.1
Prefer not to say (blank)	59	3.1
Grand Total	1899	

Academic – casual only

Row Labels	Count of Disability	%
Disabled	35	7.8
No disability	344	76.3
Not known	59	13.1
Prefer not to say (blank)	13	2.9
Grand Total	451	

The number of academic staff who have declared a disability is low. The data shows a slighter higher potential impact for casual staff (7.8%) than all academic staff (5%).

Gender:

Academic – all staff

Row Labels	Count of Pers Sex	%
F	936	49.3
M	963	50.7
(blank)		
Grand Total	1899	

Academic – casual only

Row Labels	Count of Pers Sex	%
F	254	56.3
M	197	43.7
(blank)		
Grand Total	451	

The potential impact for all academic staff is evenly distributed between males and females. The potential impact for academic casual only staff is slightly higher for females (56.3%).

Age:

The data below highlights that staff in younger age groups are slightly more likely to be impacted and for academic casual staff only an increased % of those in younger groups (16-24 and 25-44).

Academic – all staff

Row Labels	Count of Age Band	%
16-24	31	1.6
25-44	980	51.6
45-65	804	42.3
Over 65	84	4.4
(blank)		
Grand Total	1899	

Academic – casual only

Row Labels	Count of Age Band	%
16-24	26	5.8
25-44	250	55.4
45-65	141	31.3
Over 65	34	7.5
(blank)		
Grand Total	451	

Religion and Belief:

The data available included a large proportion of not known/refused and no robust conclusions can be drawn from it.

Gender Reassignment

The data available included a large proportion of not known/refused and no robust conclusions can be drawn from it.

Pregnancy and Maternity

The data available included a large proportion of not known/refused and no robust conclusions can be drawn from it.

Marriage and Civil Partnership

There is insufficient data available on marriage and partnership.

b) Is there evidence that the Policy, Procedure or Function could be directly or indirectly discriminatory? Is there a genuine occupational requirement (this would need to be explained)?

The policy to withhold pay is not discriminatory per se as pay is withheld, not on the basis of any protected characteristics, but because of participation in the ASOS which is the choice of the individual member of staff.

The requirement to declare participation in the ASOS is also not discriminatory as there is no obvious reason why protected characteristics would impact on the ability to declare participation.

The policy to withhold pay may, however, have a particular impact as a result of protected characteristics. This is based on the data highlighted above relating to Gender and Age in particular. However, it is important to note the point already made that the data reflects information for Academic Staff and Academic Casual Staff generally and, appropriately, not by membership of UCU specifically.

Based on the general data available, the policy on withholding pay may have more adverse impact by:

Gender – specifically for Academic Casual staff
Age – for all Academic and Academic Casual staff

For both, there may be more disadvantage as the level of deductions may cause greater hardship.

c) Does the Policy, Procedure or Function promote equality of opportunity or have the potential to do so?

The policy is based on individual choice to participate in the boycott and not on the basis of protected characteristics.

d) How is the Policy, Procedure or Function likely to promote good relations between people with different protected characteristics?

The policy does not directly promote good relations between people with different protected characteristics. However, by clearly articulating the policy it helps to avoid misinformation and misunderstanding on the University's stance regarding the boycott, declaring participation and deductions from pay.

e) How is the Policy, Procedure or Function likely to promote positive attitudes towards others and encourage their participation in University or public life?

n/a

6. Amendments/modifications

a) Detail any amendments or modifications that may eliminate identified negative impacts or increase positive impacts of the Policy, Procedure or Function with timescales

We have adapted our approach to ensure parity for casual staff who are either only due to undertake marking/assessment activities or a combination of marking/assessment and other academic activities to ensure parity with staff on other contract types.

Individual circumstances may mean that the withholding of pay could potentially cause financial hardship and in exceptional circumstances, staff can discuss such issues with HR to discuss possible mitigations. Mitigations might include staggering the withholding of pay on a case-by-case basis.

7. Publication

a) Provide details of arrangements to publish full assessment:
Staffnet.

8. Review Date: not required.

Author (Name and Position): Tracey White, Senior HR Partner

Authors signature:

Equality and Diversity Adviser (Name):

Equality and Diversity Adviser signature:

9. Date of submission to Equality, Diversity and Inclusion Committee:

Approval Yes No