

## THE EDUCATIONAL INSTITUTE OF SCOTLAND

### Advice to Members of EIS-FELA and EIS-FELA Representatives at West Lothian College

**This guidance is to assist members when taking part in the ‘working to rule’ in the context of action short of a strike at West Lothian College from April 26<sup>th</sup>.**

Action Short of Strike Action (ASOS) is a form of industrial action and may involve breaching your contract of employment; your statutory ballot gave a mandate for the following ASOS action in an escalatory manner:

1. ‘working to rule’, involving members doing no more than the minimum required by their contract;
2. a resulting boycott, involving members refusing to enter students’ marks/results into college systems;
3. not covering for absent colleagues, including not rescheduling lectures or classes cancelled due to colleagues’ absence.

Action Short of Strike Action will begin on 26<sup>th</sup> April 2021 with Action 1 above (Working to Rule). Until further notice, members are advised to ensure that they abide by working to rule in the context of action short of a strike.

If there is no resolution forthcoming from management, members will be advised to escalate to action numbers 2 and 3 (above) in the near future.

It is expected that action will continue until 24<sup>th</sup> September 2021, or end earlier if a resolution is found. If no resolution is achieved by that point, an additional statutory ballot for strike action may be carried out.

#### **What does ‘working to rule’ mean?**

Working to rule means abiding by the terms of your contract, but to do no more than that. ‘Your contract’ includes your written statement of employment plus any implied terms or ‘custom and practice’. For example, if your contract states your workplace location as Livingston campus but you consistently work elsewhere then you will be expected to continue working elsewhere.

Members should perform no additional voluntary duties beyond what is covered in their contracts (express or implied). The ‘action’ which members are advised not to carry out in

'working to contract' might include a selection of the actions below, if the action is not set out in the locally agreed Terms and Conditions of employment:

- regularly working beyond contracted hours;
- reading and responding to emails outwith working time;
- undertaking additional development work on behalf of the College;
- undertaking voluntary tasks or meetings;
- working over a lunch break (members should be aware that a break is a statutory entitlement);
- undertaking marking or assessment activities outwith working hours and
- preparation for classes or meetings outwith working hours.

You may be able to identify other actions you currently carry out (in addition to or instead of the examples above) that are not contractually required at West Lothian College.

## **What are my contractual hours?**

Members who are lecturers should work no more than their 35 hours per week. This figure is stated in NJNC Circular 03/19 which implements the NWPA and it takes precedent over any West Lothian College Lecturers' contractual clause.

### **Weekly Class Contact:**

Lecturer members should teach no more than the maximum class contact hours per week as stated by the NJNC (Circular 01/18): 23+1 hours. See Appendix 1 for further explanation.

## **FAQ**

### **1. What should I do if, in any one week, I have not completed my normal contractual duties within my contractual hours?**

If your line manager asks why other duties were not completed, you should inform them that you have been unable to complete the remainder of your normal duties within the limits of your contractual hours and that you will resume them in the following week.

It is important that all the tasks and functions you normally carry out are discharged during the 'working to rule' only part of the ASOS. The work to rule does not mean that duties should not be done - it is simply a question of when you do them, and not exceeding the maximum hours stipulated in your contract or in workload agreements or established practice.

If you believe you are being asked to work too many hours, that is to say if you find that you cannot fulfil all your contractual duties within the 35 hours limit in your contract, you should also make reference to your institution's occupational stress or workload policies which will set out various duties upon the employer to address heavy workloads.

## **2. Should I work 'after hours' or at weekends?**

The standard NJNC and West Lothian College contractual terms do not require you to work in the evenings or at weekends and you should refuse to work at those times unless you already have an agreement to work at these times.

## **3. Will students be impacted by us taking ASOS?**

The EIS-FELA Branch has made it clear to the student union that management's proposals will have more of an impact on students' learning in the long term than this ASOS will have.

## **4. Do I need to tell management that I am taking part in ASOS?**

You do not have to inform management in advance of the ASOS beginning on 26<sup>th</sup> April. The EIS has already given the notice required in law. If you are asked during the ASOS period if you are carrying out the ASOS then you should respond Yes, i.e., be accurate. There is no need to give the employer notice that you will be carrying out the ASOS or that you intend to carry out ASOS. All EIS-FELA members are expected to take part in this action to protect their colleagues and professional status.

## **5. Can I refuse to cover for absent colleagues from 26<sup>th</sup> April?**

No, you should continue to cover for absent colleagues until you are advised that the ASOS has been escalated to include not covering absent colleagues.

## **6. I am a head of department, line manager or in another senior academic role. How can I best support the action?**

Many of our union's strongest members are in senior roles. Senior staff can play an active role in the dispute by working to their contract just like everyone else. In addition, it is helpful if senior staff acknowledge that action is underway and resist any pressure to ask colleagues to undertake any work covered by the actions short of strike action.

**7. Should I take lunch breaks and breaks from working at my computer?**

Staff should always take lunch or alternative breaks and breaks from working at your computer. This is especially important whilst working from your home.

**8. What should I do if management insist that I perform a task I believe to be outside my contract?**

If college management insist that you undertake a task and you do not believe this is reasonable you should ask that the instruction is put to you in writing. If you are issued with a written instruction you must be careful not lay yourself open to disciplinary action by refusing to undertake the task. Comply under duress, stating your position in writing, whilst you seek advice from your Branch Secretary. The EIS is likely to advise you to raise a formal grievance in these circumstances. It is totally legitimate to raise a grievance about a decision that you disagree with. Most importantly, if you have any doubts regarding the consequences of a course of action, contact a branch official for advice.

Your Branch Secretary will seek further advice from the EIS Area Officer where necessary or appropriate.

**9. What about the other 3 types of ASOS listed in the ballot – when will I get the guidance for these?**

The EIS will issue guidance on the other three types of ASOS in the ballot paper and listed at the start of this guidance nearer to the point of time when the ASOS will escalate to include these actions.

***See also the previously issued Action Short of Strike Action FAQs.***

## APPENDIX 1: From NJNC Circular 01/18

<p><b>Class Contact</b></p>	<p><b>Unpromoted Lecturers</b></p>	<p>23 hours plus 1 (maximum 8 hours in any 12 consecutive teaching week period), with annual hours of 860.</p> <p>Class Contact Time: 23 hours (FTE)</p> <ul style="list-style-type: none"> <li>• Teaching/Assessment.</li> <li>• Supervision of students</li> <li>• Tutorial Teaching/Support</li> </ul> <p>Where appropriate and as directed by college management:</p> <ul style="list-style-type: none"> <li>• Participating in agreed academic research</li> <li>• Additional curriculum development</li> </ul> <p>Additional 1 hour Class Contact (FTE) up to a maximum of 8 hours within any 12 week consecutive teaching week period</p> <ul style="list-style-type: none"> <li>• Cover in accordance with the above for sickness or other short term absence.</li> <li>• Where appropriate, and as agreed with college management, coordination/lead of internal verification.</li> </ul> <p>Weekly hours 23+1 and Annual hours of 860 (FTE) to be applied pro rata to part time staff.</p> <p>To be applied from 1<sup>st</sup> August 2018</p> <p>No detriment for staff in post at 31 December 2017</p>
	<p><b>Promoted Lecturers</b></p>	<p>Level 1 – Up to 17 hours per week</p> <p>Level 2 – Up to 12 hours per week.</p> <p>Level 3 – Up to 9 hours per week.</p> <p>This will be applied from 1 August 2018.</p> <p>Class Contact time will be based on the duties listed above for unpromoted staff, incorporating both the '23 hours' and the 'additional 1 hour'.</p> <p>No detriment for staff in post at 31 December 2017</p>