

Council, 10 March 2017

PAYMENTS TO MEMBERS ENGAGING IN STRIKE ACTION

(1) Introduction

Over the period between September 2016 and February 2017 Executive Committee and Finance Sub-Committee have received a series of reports and given consideration to the current system in operation for the payment of Strike Pay, and to possible alternatives including flat rated payments or payments which are linked to the daily deduction rates applied by employers on members taking strike action. Eg 1/365, 1/260 or 1/235.

The impact of delaying commencement of Strike Pay until the third day of a dispute but increasing the percentage of support above 50% was also explored.

Executive Committee also revisited the key political imperative around strike pay which is to support members in making an informed and committed decision at the point of ballot. To do that they need to be aware and be absolutely clear about what level of support is available and, also, what level of financial sacrifice is being asked of them. In this regard the Committee felt Strike Pay applied on a straightforward %age of salary lost, as is currently operated, has a distinct advantage over the alternatives.

Case studies were undertaken which examined the impact the alternative methods of operating strike pay would have had on members had they applied in disputes compared to the actual payments in the disputes. The case studies revealed that whilst each method had pros and cons the application of a single daily flat rate would, despite having a degree of clarity and equity, vary considerably in terms of offsetting the losses experienced by members according to the deduction regime operated by employers, and was therefore discounted as a viable alternative. By way of example a member paid £35,800 on strike in a 8 day dispute with Strike Pay commencing from the third day at £75 per day would have lost £280 in the recent West Dunbartonshire dispute compared to a member in Ayrshire College on the same salary who would have lost £20. This is simply due to the daily deduction of 1/235th in the latter compared to 1/365th applied by the employer in the former.

Consideration was also given to having a number of flat rates linked to the deductions applied by employers using the 4 most likely ratios (1/365, 1,260, 1/235, 1,190) Whilst this, to some extent narrowed the differentials exposed in having a single flat rate, there still remained a considerable diversity in the losses that would be experienced by

members. Furthermore, it could appear to members to be a complicated calculation and other than a cash figure has no obvious rationale as a selling point despite being nuanced to different deduction regimes. Accordingly, Executive Committee was not inclined to recommend to Council to adopt the flat rated model in any format.

The existing method, however, presents a clear formula, 50% of loss of earnings for any strike moving beyond a single day. This has a degree of simplicity, clarity and equity around it. It has the further advantage of not discriminating against any category of member in that losses are proportionate across the board. One weakness is that it operates retrospectively and can be bureaucratic, although that may be addressed through a different operating model. The basic method could also be modified, for example, by increasing the percentage above 50% if a dispute exceeds a specified number of days should Executive Committee feel that this would assist the Institute in supporting members involved in prolonged disputes. (NB This discretion already exists within the powers of both Executive and Emergency Sub Committee but is on a case by case basis.)

This paper sets out Executive Committee's recommendations for EIS provision of payments to members undertaking strike action.

(2) General Principles and Amounts Payable

Any member engaged in a national strike will not normally be paid strike pay but will be eligible for access to the Strike Hardship Fund. This fund will be based on the system put into place in 2016 for the FELA industrial action, at that time it was referred to as the 'Strike Support Fund' and is as described in **Annex A**

The Strike Hardship Fund will be open to all members engaging in unpaid strike action of any duration and will be available from the second day of loss of earnings from strike action.

Industrial action involving ULA branches, FELA branches or Local Associations may be eligible for strike pay but a decision on eligibility will be made at the beginning of the dispute (ie before members are asked to vote in a statutory ballot). Such decisions will be made by the EIS Executive Committee/Emergency Sub-Committee of Executive.

In the event that a dispute is eligible for strike pay payments the following will apply:

- (1) Where a strike has a duration of one day that day be unpaid.

- (2) Where the duration of the strike exceeds one day the Institute base its reimbursement on *50% of the member's net loss of earnings from the strike (including the first day).

Members receiving strike pay will not be eligible to access the Strike Hardship Fund.

*Executive Committee and or Emergency Sub-Committee retain the discretion to increase the percentage paid above 50% on a dispute by dispute basis or during the course of a dispute.

(3) Operation of the Strike Hardship Fund

The fund will be open to all members but payments will only be made in circumstances of disproportionate hardship and decisions on this will be made by a panel consisting, in normal circumstances, of the President, Vice-President and an Official. Where an Office Bearer is unavailable the Ex-President or a second Official will be requested to substitute.

(4) Conclusion

This proposal ensures equality of treatment between FELA and ULA branch disputes and disputes involving a Local Association. In each case it would be for Executive Committee and or Emergency Sub-Committee to decide on if or when strike pay would be paid.

The proposal recognises that the EIS could not sustain strike pay payments if there was a national strike of teachers. In addition, it provides access to support for members who are suffering hardship during a dispute where strike pay is not provided.

It is recognised that any new system will need to be reviewed and evaluated to ensure it meets the needs of members and that it also enables the EIS to achieve our objectives.

ANNEX A

Educational Institute of Scotland

Strike Hardship Fund

The above Fund has been instigated by the Institute with the aim of providing financial support to members engaged in disputes who have been disproportionately affected from taking strike action. Members should be aware that it is not the intention for this Fund to be used as general Strike Pay, and it will not be available in disputes where the Institute has decided that Strike Pay will be in operation. The Fund opens with the sum of £50,000 which has been allocated to it from the Professional Fund.

The Strike Hardship Fund will be open to all members engaging in unpaid strike action and will be available from the second day of loss of earnings from strike action.

The Fund is intended to provide assistance to members who have been disproportionately affected by a loss of earnings through participation in strike action, compared to colleagues. Applicants might include, for example, part time teachers or lecturers who normally work primarily on designated strike days or members who are the sole earners in their household.

The application process has been made as straightforward as possible. There will be two forms required from applicants. The first of these will include details of applicants working hours and normally* require the signed confirmation from an appropriate official of participation in the strike on the relevant days of action. (*provision has been made for e mail confirmation in certain circumstances) The second form will require applicants to outline the reason or reasons for seeking support from the Fund – why they have been disproportionately affected and/or their specific personal circumstances. Applicants must post both forms to the Freepost address provided.

No payments from the Fund will be made in respect of the first day of any strike action. Should the action continue into a second day Headquarters will issue details on the process to be followed for submission of applications and the timescales involved. Where strike action extends to a period of several weeks or more updated application forms and information on payment dates

will be available on the Institute's website. As the intention is to get financial support to members as quickly as possible during a dispute, and not on its conclusion, the aim will be to process funding on a fortnightly basis.

Approved applications will be paid at a flat rate of £50 for a full day's loss of pay (*pro-rata* for a part day's pay) for each day of strike action covered by the relevant application. Payments will be made by BACS directly into bank accounts using the details held on membership records.