

Industrial Action By Other Unions - Advice for NASUWT members

1. The legal position

1.1 It is unlawful for any member of the NASUWT to take industrial action where the NASUWT has not given a specific notice to the employer advising that action will be taken.

What members should do where another union has given notice of strike action

1.2 Where members of another TUC-affiliated trade union are involved in industrial action, NASUWT members should:

- make clear to the headteacher/principal that they will be reporting for work as normal; and
- make clear that they will not accept any variation to their contracted duties and/or undertake the timetabled or other responsibilities of those engaged in action, including taking into their timetabled lessons pupils from classes of teachers who are involved in strike.

1.4 NASUWT Workplace Representatives should inform the headteacher/principal of this on behalf of all NASUWT members.

2. Closure of the school

2.1 Headteachers/principals, having been notified of those who will be participating in the strike action by the union involved in action, will make a judgement about whether the school/college will remain fully open, partially open (i.e. some year groups/class sent home), or will close.

- 2.2 The NASUWT Workplace Representative will need to confirm that the headteacher/principal has undertaken a risk assessment based on the potential impact on the school/college of the absence of staff who will be involved in the strike action.
- 2.3 If the decision is made to close the school, the headteacher/principal will decide whether it is closed only to pupils. Staff not involved in strike action should report to work or remain at home if directed by the headteacher/principal to do so.
- 2.4 NASUWT members should follow the instruction of the headteacher/principal in this matter. However, the NASUWT does not believe it makes much sense for those not taking action to be instructed to attend if all pupils are remaining at home.
- 2.5 If pupils are remaining at home, and staff are being asked to report to work, in these circumstances, the NASUWT would need to be satisfied that the work that members would be directed to undertake in school/college in the absence of pupils would not constitute any element of work which would normally be undertaken by a member of staff on strike and also that the work they are being directed to do is reasonable and commensurate with their contract. Contact should be made immediately with the NASUWT for advice if members have any concerns about the work being allocated to them.
- 2.6 NASUWT members should not suffer any salary deduction if the school closes.
- 2.7 Where a school remains partially open and certain classes/year groups are sent home, NASUWT members should not agree to timetable variations to accommodate classes or pupils who would normally have been taken by those taking action. The NASUWT would need to establish with the headteacher/principal that members who are working with their normal classes will be able to access all of the necessary services to ensure the health, safety and welfare of themselves and the pupils.

3. Staff employed to provide cover

- 3.1 If an NASUWT supply teacher is contracted-in to do supply work on the day of a strike by other unions, they will be subject to deployment by the headteacher and the NASUWT would not advise them to refuse to cover even if they are deployed to cover a class/group affected by the industrial action.
- 3.2 If an NASUWT supply teacher is covering the timetable of someone on long-term absence, e.g. sickness or maternity leave, they should work their normal timetable and they should decline to be reallocated to another class or group if one they were normally timetabled to teach is not in school because of the strike action.
- 3.3 If an NASUWT member has a specific contract which is wholly or mainly to provide cover for absence, they will be subject to deployment by the headteacher and the NASUWT would advise them to provide cover, even if it is for a class/group affected by the industrial action.
- 3.4 If an NASUWT member has a contract of which only part is to provide cover for absence and they are asked to cover during their timetabled time for cover, the NASUWT would advise them to cover. If, however, they are asked to cover during their other timetabled time because the class/group they would normally have been timetabled to teach is not in school due to the strike action, they should decline to be reallocated to another class or group for the purposes of covering for a teacher who is taking industrial action.
- 3.5 NB. In each of the statements above in this section where the NASUWT advice is not to provide cover, if a member is instructed to do so by the headteacher, they should protest, ask the headteacher to put the instruction in writing and provide the cover. They should, however, notify the NASUWT immediately. Members should not put themselves at risk of disciplinary action by refusing to follow an instruction of the headteacher/principal.

4. Advice for NASUWT headteachers/principals and other senior leaders

- 4.1 NASUWT headteacher/principal members should have received notice either directly to the school or via the employing authority giving notice of the strike action. The notice should contain the number of teachers the union taking the strike has called upon to take strike action.
- 4.2 The NASUWT headteacher/principal may wish to confirm that figure with the workplace representative of the relevant union but should not ask for the names of individual teachers who are taking strike action.
- 4.3 A risk assessment should then be conducted to determine whether the school will be closed to all pupils or partially closed with some classes being excluded for the day. If the school is closed fully to all pupils then the headteacher/principal will need to determine whether the school will be open to all staff who are not engaged in the strike action.
- 4.4 Please see the advice above to members which covers the factors which should be taken into consideration when arriving at a decision.
- 4.5 NASUWT headteacher/principal members should not seek to employ supply teachers specifically to cover the classes of teachers who are on strike. This would be in breach of agency workers regulations.
- 4.6 NASUWT headteacher/principal members should write to parents making clear the arrangements for the day of the strike. It is important to avoid naming or identifying teachers who are on strike in any communication with parents as this could lead to a legal challenge under Data Protection provisions.
- 4.7 Where the school will be open or partially open to staff and/or pupils, NASUWT headteachers/principals should ascertain whether the union on strike is planning to mount a picket at the school. If a picket is to be mounted the headteacher/principal should make clear that they expect staff/pupils entering the building to be treated professionally.

5. Deputy heads

- 5.1 If an NASUWT deputy/vice-principal is working in a school where the headteacher/principal is a member of the union taking strike action, they are advised to ask the headteacher/principal in advance of the strike what they are planning to do on the day of the strike.
- 5.2 If the headteacher/principal states in advance that s/he is intending to be on strike and asks an NASUWT deputy/vice-principal to run the school then the deputy should ask the headteacher/principal if s/he is instructing him or her to do so. If the answer is yes, then the deputy/vice-principal may wish to raise with the headteacher/principal the appropriateness of this instruction but must ask for the instruction to be put in writing. The deputy/vice-principal should ask for a copy of the risk assessment the headteacher/principal has undertaken for the strike. The deputy/vice-principal should contact the NASUWT for advice.

Absence of the headteacher/principal on strike action

- 5.3 If the school is scheduled to be wholly or partly open on the day of the strike and the headteacher/principal does not attend for work on that date, the deputy/vice-principal should carry out their normal responsibilities in deputising for the headteacher/principal. The deputy/vice-principal, will on that day, have to make their own decision about whether the school should stay open based upon their own risk assessment.
- 5.4 NB The above advice would also apply in schools where there is no deputy/vice-principal, an assistant head which has a job description which requires them to deputise for the headteacher/principal.

Assistant headteachers

- 5.5 If an NASUWT assistant head works in a school where the headteacher/principal and deputy/vice-principal are members of the union taking strike action they will need to ask the headteacher/principal in advance

of the date of the strike what arrangements are being made for the day of the strike.

- 5.6 If there is an expectation by the headteacher/principal that the NASUWT assistant head will take responsibility for the school then the headteacher/principal should be advised that this is inappropriate and the NASUWT assistant head should contact the NASUWT for advice immediately.

6. Picket lines

- 6.1 Where a union taking strike action establishes a picket line, refusal to cross it would render a teacher who is not a member of a union taking strike action liable to disciplinary action, including the deduction of salary, as it would be considered as participating in unlawful industrial action.
- 6.2 The single exception to this is where there are genuine grounds to believe that crossing the picket line would put the person concerned at risk of injury.
- 6.3 In these circumstances, NASUWT members should contact the headteacher/principal an appropriate senior person in the school/college or an appropriate person in the employing authority, if the headteacher/principal is not available. They should also contact, in England, the NASUWT MSA Team or, in Wales, the NASUWT Cymru Centre to advise what has taken place and to seek further advice or support.
- 6.4 In all other circumstances, members should cross the picket line having assured those picketing that they will not undertake work those on strike would normally have carried out.

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