



HUMBERSIDE FIRE AND RESCUE SERVICE

People & Development

Partial Performance Due to Industrial Action (Grey Book) Policy

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Responsible Person	Head of Human Resources
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What we must
do well



How we support our
communities



We value and support
the people we employ



We efficiently manage
the Service

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1. INTRODUCTION

Humberside Fire and Rescue Service (HFRS) will seek to work with employees and their representatives to avoid/minimise wherever possible incidents of industrial action and disputes. However, HFRS recognises that there may be exceptional occasions when employees choose to participate in industrial action and this policy details how the organisation Service will respond to industrial action in the form of employees undertaking only part of their duties and sets out appropriate consequential actions.

Core Code of Ethics

HFRS has adopted the Core Code of Ethics for Fire and Rescue Services. The Service is committed to the ethical principles of the Code and strives to apply them in all we do, therefore, those principles are reflected in this Policy.

National Guidance

Any National Guidance which has been adopted by HFRS, will be reflected in this Policy.

2. EQUALITY AND INCLUSION

HFRS has a legal responsibility under the Equality Act 2010, and a commitment, to ensure it does not discriminate either directly or indirectly in any of its functions and services nor in its treatment of staff, in relation to race, sex, disability, sexual orientation, age, pregnancy and maternity, religion and belief, gender reassignment or marriage and civil partnership. It also has a duty to make reasonable adjustments for disabled applicants, employees and service users.

3. AIM AND OBJECTIVES

This policy will apply in situations where firefighters take industrial action which involves a refusal to comply with the full range of normal duties (irrespective as to whether the industrial action is 'unofficial' or 'official').

4. ASSOCIATED DOCUMENTS

- [Equality Impact Analysis](#)
- Legal References
There are no specific legislative requirements relevant to this policy.
- National Guidance Reference
There is no specific National Guidance relevant to this policy.

5. POLICY STATEMENT

Should the Service be subject to industrial action in the form of partial performance of duties, the response should be in accordance with the arrangements outlined

within this policy, subject to the Chief Fire Officer and Chief Executive being satisfied that adequate cover is in place to deal with emergency calls.

6. RESPONDING TO PARTIAL PERFORMANCE DUE TO INDUSTRIAL ACTION

Should the Service be subject to industrial action in the form of partial performance of duties, and subject to the Chief Fire Officer and Chief Executive being satisfied that adequate cover is in place to deal with emergency calls, the Service will:

- refuse to accept partial performance, advise the employees that they are to be sent home and confirm to the employees that they will not be paid at all for the period during which they refuse to carry out the normal range of contractual duties, irrespective of whether they wish to continue to carry out some of their duties.
- review the response, should the Chief Fire Officer and Chief Executive consider that such adequate cover can no longer be guaranteed.

The Chief Fire Officer and Chief Executive, in consultation with the Chairperson, is authorised to adjust the response as they deem appropriate should it be necessary to undertake such action before a scheduled meeting of the Authority.

If the Chief Fire Officer and Chief Executive considers that adequate cover to deal with emergency calls cannot be guaranteed in a situation where partial performance of duties has not been accepted and employees have been sent home without pay, then it may become necessary for the Service to accept partial performance of duties but deduct pay for those duties not performed.

Case law has established the following principles:

- Employees taking industrial action short of a strike in breach of their contracts, will have an entitlement to reduced pay where the employer allows them to continue working.
- Where pay deductions are made, these should be reasonable (i.e. a reasonable reflection of the work lost/damages caused).
- Pay deductions made as a response to employees taking part in strike action or industrial action short of a strike are excluded from the unlawful deduction of wages provisions in the Employment Rights Act.

The Service will ensure that:

- Employees are notified in advance of any pay deductions to be made..
- Employees covered by the industrial action are given reasonable opportunity to disassociate themselves from the action before the deductions are implemented.

- The amount and the reason for the pay deduction are clearly explained.
- Pay deductions are made at the earliest opportunity.

7. DEDUCTIONS FROM PAY

Deductions will be based on the proportion of time that employees would spend on a particular activity.

It is the professional judgement of the Service's Strategic Leadership Team that, having disregarded any consideration of stand-down time, the activities of an operational firefighter can be broadly divided into four primary areas. These are detailed below with an assessed average percentage of time required to be undertaken on each activity by a wholtime firefighter on a daily basis:

- Emergency response – 10%
- Training, learning and development – 20%
- Off station activities including legislative, business and community safety and non-emergency special services – 50%
- Routine duties – 20% (such as station administration and equipment maintenance).

In any circumstances where partial performance of duties does not include responding to emergency calls, then such partial performance will not be accepted by the Service and pay will be stopped in full.

Where partial performance of duties is accepted (in circumstances where this includes responding to emergency calls, and where the Chief Fire Officer and Chief Executive determines that an adequate response to such calls cannot otherwise be guaranteed) deductions for partial performance of duties by firefighters will be calculated in accordance with the assessment above. For example:

- If a firefighter opted only to respond to undertake 999 calls, they would have 90% of their pay deducted on the basis that emergency response accounts for an assessed average of 10% of working time. 4
- If they undertook to respond to emergency calls and perform training, learning and development duties, then 70% would be deducted from their pay for the relevant period on the basis that these activities, in total, would account for an assessed average of 30% of working time.

Deductions would be made for the period during which the partial performance was undertaken, including hours and part-hours. For example, if a firefighter opted to only respond to 999 calls for a period of one hour (or part of an hour), they would lose 90% of pay for that hour.

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Similar assessments will be made for calculating deductions of pay for categories of employees other than station-based firefighters.

8. RECORDING

Line managers should complete the form titled 'Recording of Industrial Action in the form of Partial Performance of Duties' as soon as possible and a copy should then be sent HR as notification of the employees who have taken part in industrial action in the form of partial performance of duties.

**If you require any further guidance in relation to this policy,
please contact Human Resources**