

Dear University Executive Board,

We acknowledge your reply of the 3rd of May to our correspondence regarding the marking and assessment boycott (MAB) called by UCU.

We are disappointed to learn that you propose to maintain UEB's policy of punitive pay deductions despite the damage this will undoubtedly cause to the institution and its members. UEB clearly intends to try and end this dispute by putting the University's staff under maximum pressure – are you applying the same level of pressure to UCEA?

Our members have made a number of decisions on how to respond in case UEB fail to reconsider their punitive pay deduction policy, including passing a motion to undertake targeted strike action. We are moving to implement those decisions, but remain ready to de-escalate as soon as UEB decides to revise its position.

Your reply to our letter fails to provide clarity in even the most central aspects of UEB's policy, and seems to further muddy the waters. UEB's approach to the action needs to be clearly articulated so that HR policies can be evenly implemented across the institution.

You write in your response that:

"We [...] have chosen [...] to withhold a smaller proportion of pay at this stage[.]"

This is at odds with HR's publicly stated position which is that:

"The university will deduct 100% salary for each day staff participate in the MAB."

It can be one or the other, but not both. The proposed Rube Goldberg machine for making up 50% of salary is explicitly contingent on the ex-gratia payments not being wages for work, but rather for 'volunteering'.

If the UEB rejects partial performance, then according to UK Government advice, you must tell staff that *"they should only attend work if they fulfil their contractual duties"*.¹ If HR policy is now to only withhold 'a smaller proportion of pay', then you are accepting partial performance.

Where partial performance is accepted, the principle of *quantum meruit* applies. Pay must reflect the work done, and so deductions must be proportional. In some parts of the university, there are workload tariffs that may help to assess these deductions. For the majority of staff participating in the MAB, it is highly unlikely that proportionate deductions would be anywhere near 50% of salary. Some staff are facing these deductions for refusing to complete an hour or two of work.

Regarding the scale of the deductions proposed, you have written that:

¹ <https://www.gov.uk/if-your-business-faces-industrial-action/strike-pay-and-working-records>

“[The deductions policy] reflects the serious nature of the action being undertaken by UCU and the potential detrimental impact on our students.”

This should not have been a relevant factor in a determination of quantum meruit in relation to partial performance. You have, in a sense, attempted to price the deductions based on your characterisation of the ‘serious nature’ action, rather than on any concrete sense of the magnitude of work refused. Absent such a sense, it is difficult to see these deductions as anything but a punitive attempt to dissuade staff from participating.

Please, urgently, in the next two working days, can you clarify:

- i) Whether the University is now accepting partial performance as your letter implies.
- ii) How the University intends to compute deductions to pay in relation to partial performance in relation to the principle of quantum meruit.
- iii) What you are doing do apply pressure to UCEA such that it produces an offer capable of ending the dispute.

Finally, you end your letter by suggesting that your decisions were ‘forced upon’ you. The narrative that the University is a hostage to fortune in these disputes is untrue, and not conducive to a resolution. Other institutions have made different choices, current HR policy is a choice made by UEB.

Cardiff UCU