

Fol Document 1

From: [redacted – section 38(1)(b) of FOISA]@research.gla.ac.uk>

Sent: 17 May 2023 13:43

To: Minister for Higher Education, Further Education, and Veterans <MinisterHEFEV@gov.scot>

Cc: Cabinet Secretary for Education & Skills <CabSecforES@gov.scot>

Subject: Marking Boycott

Good afternoon Mr Dey,

[redacted – section 38(1)(b) of FOISA]

I started a part-time doctorate while still doing clinical work and submitted my doctoral thesis last month.

Yesterday, I was informed who my doctoral examiners are. I will have an internal examiner from Glasgow University and an external examiner from Cambridge. I was also informed that there will be a delay in examining my thesis and a delay in setting a date for my viva due to the marking boycott.

[redacted – section 38(1)(b) of FOISA]

I would be extremely grateful you could do everything possible to reach a fair settlement with the academics who are taking part in the marking boycott. This would enable me to conclude my doctorate and bring years of hard work to a conclusion.

Thanks.

[redacted – section 38(1)(b) of FOISA]

Fol Document 2

From: Mary Senior <MSenior@UCU.ORG.UK>

Sent: 18 April 2023 16:47

To: Cabinet Secretary for Education and Skills <CabSecES@gov.scot>

Cc: Minister for Higher Education, Further Education, and Veterans <MinisterHEFEV@gov.scot>; [redacted – section 38(1)(b) of FOISA]@gov.scot>; [redacted – section 38(1)(b) of FOISA]@gov.scot>

Subject: Letter to Cab Sec re UCU and QMU pay docking threat

Dear Cabinet Secretary,

Please find attached a letter from UCU regarding our current dispute, and the threat of disproportionate pay docking at Queen Margaret University.

I'm happy to provide further information if required.

The letter is copied to the Minister for Higher Education.

Kind regards,

Mary

Mary Senior (she/her)
Scotland Official
University and College Union
4th Floor
Ingram House
227 Ingram Street
Glasgow
G1 1DA

msenior@ucu.org.uk

18 April 2023

Dear Cabinet Secretary,

On behalf of the University and College Union (UCU), I would like to congratulate you on your appointment as Cabinet Secretary for Education and Skills. UCU has had constructive working relationships with your predecessors, and we look forward to working with you over the coming years. It is with regret that this first contact with you in your new position is to draw to your attention a deeply disappointing development in the higher education sector in Scotland.

We have written to your colleague, Graeme Dey, Minister for Further and Higher Education, to brief him on the two current disputes in the university sector on pensions, and on pay and working conditions. UCU members recently renewed our industrial action mandate in both disputes, and gave notice to employers at the start of April that the union would commence a marking and assessment boycott from Thursday 20 April. This marking and assessment boycott is a legitimate industrial action short of strike, and is only undertaken as a very last resort by our members.

Marking and assessment duties are only one part of university staff activities, which include delivering teaching, research, student support, and administration. However, some universities are now beginning to send threatening communications to university workers, indicating that they will deduct disproportionate amounts of pay from staff participating in this legitimate industrial action.

Leading these threats is Queen Margaret University in Edinburgh, where the employer has told staff it will deduct 100 per cent of staff pay from 20 April 2023 for staff who participate in this legitimate industrial action short of strike. As a union we are shocked at this approach and the attempt by the employer to undermine legitimate industrial action short of strike by workers.

The employer's threat is punitive and disproportionate to the action short of strike that will commence from Thursday, and flies in the face of the Scottish Government's flagship Fair Work policy. This draconian approach will only escalate the national UK-wide dispute at Queen Margaret University and is already souring local industrial relations. We have urged the employer to reflect on its approach and to withdraw this punitive threat. The actions at Queen Margaret University are already drawing attention, including an expected debate at this week's Scottish Trade Union Congress in Dundee where we anticipate the university's threat will be condemned.

I understand you are due to be visiting Queen Margaret University later this week, and would urge you to raise this disproportionate and bullying approach against hard working staff with the Principal Sir Paul Grice and the senior managers at the University. I would hope you would recognise the unfair and punitive nature of pay deductions of 100 percent for action short of strike, particularly during a cost of living crisis. Our members would prefer to be focussing on delivering the vital teaching, research, student support in the university sector. However, the real terms pay cuts they have faced of over 25% since 2009, along with unsafe workloads, gaping gender, race and disability pay gaps, and the proliferation of insecure contracts in the sector, is the reason why we remain in dispute with university employers.

I hope you can raise the issue of disproportionate pay docking with the Principal at Queen Margaret University, and I look forward to hearing from you on this matter. We will continue to liaise with the higher education minister, but given your forthcoming visit to the university wanted to raise the issue with you in person. I would also be happy to personally brief you, or your civil servants if that is helpful.

Thank you for your attention to this matter.

Yours sincerely,

Mary Senior
Scotland Official

Cc Mr Graeme Dey MSP, Minister for Further and Higher Education, and Minister for Veterans.

Fol Document 3

Mary Senior
MSenior@UCU.ORG.UK

Our Reference: 202300353017
Your Reference: -

10 May 2023

Dear Mary Senior,

Many thanks for your letter of 18 April 2023 regarding pay-docking at Queen Margaret University as a result of UCU members undertaking industrial action and your subsequent letter of 3 May regarding funding cuts in the higher education sector. I am responding to both as these issues fall within my Ministerial portfolio.

As regards the issue of pay-docking at Queen Margaret university. It is my position and that of the Scottish Government, that universities are autonomous institutions and matters relating to pay, working conditions and pensions are for them to determine and therefore the Scottish Government has no locus to directly intervene.

Nevertheless, I do expect that fair work principles to be applied in the sector and the Scottish Government expects that employers, workers and trade unions work together to reach the right decisions and ensure workers are treated fairly – this is central to our Fair Work approach. And I raised the specific issue at Queen Margaret with the Principal when I visited the University recently.

Regarding your letter on funding cuts, it has been an extremely challenging budget process this year – a position exacerbated by challenges brought about by inflationary pressures and the cost of living crisis. Nevertheless, the 2023-24 Budget allocated nearly £2 billion to Scotland's universities and colleges through the Scottish Funding Council, demonstrating our commitment to supporting our learners and institutions.

As clearly set out by the previous Cabinet Secretary for Education and Skills to the Education Committee on 22 February this year, any new pressures on the Education and Skills portfolio 2023/24 budget would have to be funded from within the portfolio. This regrettably has resulted in the additional uplift for universities, announced in the 23/24 budget, no longer being available, resulting in funding levels returning to the previously announced flat cash settlement in line with the Resource Spending Review.

We are due to have our introductory meeting on 24 May. I look forward to meeting yourself and the UCU delegation and discussing any relevant matters then.

Yours sincerely

GRAEME DEY

Fol Document 4

From: [redacted – section 38(1)(b) of FOISA]@qmu.ac.uk>

Date: 13 April 2023 at 16:54:38 BST

To: "McLennan P (Paul), MSP" <Paul.McLennan.MSP@parliament.scot>

Cc: "Dey G (Graeme), MSP" <Graeme.Dey.msp@parliament.scot>, "Beattie C (Colin), MSP" <Colin.Beattie.msp@parliament.scot>

Subject: **Constituent concern**

Dear Paul McLennan,

I am writing to you as a constituent ([redacted – section 38(1)(b) of FOISA]) to express my concerns about the actions of Queen Margaret University during the current industrial dispute. I have also copied this email to Colin Beattie MSP as the MSP for Queen Margaret University's constituency and Graeme Dey MSP as Minister for Higher Education and Further Education.

As you may know, the University and College Union is engaged in legally mandated industrial action across the UK. One aspect of the action is undertaking a marking and assessment boycott. Although marking and assessment only comprises part of our duties as academics, Sir Paul Grice (Principal and Vice Chancellor of QMU) today informed staff that the university will take 100% of pay from any member who participates in the boycott.

This is a clear anti-union tactic intended to intimidate members and I ask you to please contact Paul and ask him to reverse this punitive policy.

With best wishes,

Dr [redacted – section 38(1)(b) of FOISA]

Dr [redacted – section 38(1)(b) of FOISA] (she/her)

[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]

Fol Document 5

From: [redacted – section 38(1)(b) of FOISA]@ed.ac.uk>

Sent: 11 May 2023 09:30

To: Scottish Ministers <Scottish_Ministers@gov.scot>; Minister for Higher Education, Further Education, and Veterans <MinisterHEFEV@gov.scot>; Cabinet Secretary for Education & Skills <CabSecforES@gov.scot>; First Minister <FirstMinister@gov.scot>

Cc: Peter Mathieson <principal@ed.ac.uk>; Mary Senior <MSenior@UCU.ORG.UK>

Subject: Funding of Scottish universities

Dear Humza Yousef, Jenny Gilruth, and Graeme Dey,

First, as an academic at the University of Edinburgh, I was very glad to read that the First Minister had recommitted to free university tuition in Scotland.

Second, Peter Mathieson is right to raise concerns about the funding of Scottish universities. While University of Edinburgh is running a large surplus overall, largely from international student fees, Scottish universities run a loss in educating UK students, according to government data. According to the Scottish Funding Council's "Transparent Approach to Costing 2020-21" (TRAC), Scottish universities only get 90.9% of the cost of educating UK students. This masks the severity of the underfunding of educating Scottish students, as it averages over both Scottish and rest of UK students. Tuition for Rest of UK students is £9,250. The Scottish government pays a total teaching grant of £850M to teach about 114,000 students, at an average cost of about £7,470 per student.

TRAC: <https://www.sfc.ac.uk/governance/institutional-sustainability-governance/institutional-sustainability/university-sustainability/transparent-approach-costing.aspx>

Scottish government budget for universities: <https://www.sfc.ac.uk/publications-statistics/announcements/2022/SFCAN152022.aspx> , Annexes A and B.

Third, I hope you will write to university vice-chancellors encouraging them to resume negotiations with our union -UCU- regarding pay, pay equality, workloads, and job security /casualisation. University of Edinburgh is running a large operating surplus. My understanding is that the sector overall would be shown to be in surplus if HESA figures followed the British University Funding Directors' "Guide to Accounting for Pensions in HE", by focusing on adjusted or operating surpluses, instead of allowing the figures to be skewed by unrepresentative and outdated figures based on the last pension valuation made in the grip of Covid panic on 2020-03-31. University pay has fallen significantly not just against inflation but also against average weekly earnings, a measure of average income compiled by the ONS. Universities can afford to pay -and staff deserve to be paid- higher wages. If there is not a negotiated resolution to our dispute soon, I expect there will be students who are unable to graduate because of our marking and assessment boycott. This is an absolute last resort for us and something we hope to see avoided through a negotiated resolution. However, university vice chancellors must make us an improved offer.

Best wishes,

[redacted – section 38(1)(b) of FOISA]

Fol Document 6

From: [redacted – section 38(1)(b) of FOISA]@qmu.ac.uk>

Sent: 18 April 2023 10:49

To: Regan A (Ash), MSP <Ash.Regan.MSP@parliament.scot>

Cc: Dey G (Graeme), MSP <Graeme.Dey.msp@parliament.scot>

Subject: Industrial action at Queen Margaret University

Dear Ms Regan

I am writing to you as my constituency MSP. I work at Queen Margaret University, which like other universities is in the middle of a prolonged dispute over pay, inequalities and precarious contracts. I am a member of the University and College Union (UCU)

UCU has just had a resounding vote to extend the mandate for industrial action (nearly 90% in favour). At this stage the union has not called further strikes but instead has instituted a marking and assessment boycott (MAB) starting on 20th April. Note that marking and assessment forms only a small portion of the workload of most staff. However, at this time of year students are submitting their final assessments.

Queen Margaret University Principal (Sir Paul Grice) emailed all staff on Thursday to warn that anyone participating in the MAB will receive 100% salary deduction for every day that they are participating.

This is a severe over-reaction which has inflamed an already difficult situation. Deductions for partial performance have never been implemented before at QMU, and 100% deductions have not been used in any other Scottish university involved with the dispute. UCU Scotland has issued a public statement (below) and has moved an emergency motion at the Scottish Trade Union Congress currently in session in Dundee.

The MAB would be called off if employers made a serious attempt to improve on their offer. No further negotiations have been offered since March.

I appreciate that this is a national dispute but Universities Scotland has the power to influence the national employers' negotiating stance. Any influence you could bring to bear on Universities Scotland or Sir Paul Grice would be much appreciated.

Thank you,

[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]

Edinburgh

[redacted – section 38(1)(b) of FOISA]

Fol Document 7

From: Mary Senior <MSenior@UCU.ORG.UK>

Sent: 03 May 2023 14:29

To: Minister for Higher Education, Further Education, and Veterans <MinisterHEFEV@gov.scot>

Cc: [redacted – section 38(1)(b) of FOISA]@gov.scot>; [redacted – section 38(1)(b) of FOISA]@gov.scot>; [redacted – section 38(1)(b) of FOISA]@UCU.ORG.UK>

Subject: Letter to HE and FE Minister re funding cuts

Dear colleague,

Please find attached a letter to the Minister Graeme Dey in relation to yesterday's funding cuts to HE.

Kind regards,

Mary

Mary Senior (she/her)
Scotland Official
University and College Union

UCU Scotland Office
4th Floor
Ingram House
227 Ingram Street
Glasgow
G1 1DA

e mseunior@ucu.org.uk
www.ucu.org.uk

Graeme Dey MSP
Minister for Higher and Further Education and Minister for Veterans,
The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

3 May 2023

Dear Minister,

Thank you for your letter of 27 April in response to mine of 31 March.

I hope we will discuss the ongoing dispute when we meet, and I welcome your commitment to engage on the issue with the sector, including with university principals. As you say, further industrial action is in no one's interests, but the failure of employers to make a fair pay offer has left

UCU members with no alternative but to act and to begin participation in the marking and assessment boycott.

In my letter of 31 March, I raised the issue of higher education funding. UCU was disappointed to see the real terms cuts to higher education funding in the 2023 Scottish budget in December. It was equally disappointing to see the Scottish Funding Council's indicative figures for individual institutions which were announced last month. However, I was shocked and alarmed to hear yesterday that a further £20million is to be taken from the higher education sector budget, in effect withdrawing the additional cash announced in December. From conversations I have had, and from the reaction seen in the media, I can see others having the same reaction across the sector, including university leaders, and students and their representatives.

I recall speaking at the education, children and young people committee in September last year and hearing you, perfectly fairly, challenge the speakers giving evidence to the committee to suggest where revenue might come from to fund the sector or where cuts might be made elsewhere in the Scottish Government's budget. In reply, I made some suggestions around taxation and aspects of government spending and would be happy to have further discussions with you on this in future. I did not envisage, though, that the higher education and further education sectors would be returning money previously allocated to it, or that this would be one of the first actions of an incoming further and higher education Minister.

I look forward to our meeting, along with UCU Scotland's elected officers, later this month. I am sure this cut, along with funding more generally, will be one of the areas of discussion but wanted to also write meantime to indicate our deep disappointment with this decision.

Yours sincerely,

Mary Senior
Scotland Official

Fol Document 8

From: ucu <ucu@strath.ac.uk>

Sent: 27 April 2023 10:23

To: Minister for Higher Education, Further Education, and Veterans <MinisterHEFEV@gov.scot>

Subject: Strathclyde UCU response to the proposed deductions for participation in legal action short of a strike

From: ucu <ucu@strath.ac.uk>

Sent: 27 April 2023 09:58

To: Principal <principal@strath.ac.uk>; [redacted – section 38(1)(b) of FOISA]@strath.ac.uk>

Subject: Strathclyde UCU response to the proposed deductions for participation in legal action short of a strike

Dear Professor Sir Jim McDonald and Mr [redacted – section 38(1)(b) of FOISA],

We are writing formally to dispute the basis that the University of Strathclyde has set out for making pay deductions for participating in the national UCU marking and assessment boycott.

At the outset, we must stress the arbitrary, unfair and threatening timeline that the employer is presenting, when the email of the 25th of April demands staff return a form by 28th April. This date is meaningless, and directly conflicts with UCU's very clear and unequivocal advice to all members not to disclose whether or not they will be participating in the action in advance, which is also reflected in Strathclyde's own FAQs. This conflict must be resolved.

We also have concerns about the nature of the form - we cannot agree that it allows members to follow the clear advice about answering direct questions on specific tasks associated with ASOS. It also allows no free text for members to contextualise their participation. Following guidance from the Scottish UCU office, we are therefore recommending that members only fill in the form following a request made **when they are actively participating in ASOS**. We are also making a blanket statement here, on behalf of members, that filling in the form is not to be read as an acceptance of the unilaterally imposed policy on ASOS. A member filling in this form is not accepting the imposition of blanket deductions, but merely following the legal duty to report participation.

We believe that Strathclyde's threats of excessive pay deductions, and Strathclyde's communications regarding deadlines for staff to inform management of participation in the marking and assessment boycott, are in breach of legislation protecting the right to freely participate in lawful industrial action.

We also expect that an equalities impact assessment was performed ahead of the implementation of this specific policy, in line with the Equality Act 2010 Public Sector Equality Duty, and we request that it be made public.

We discuss the details of our objections to the Strathclyde policy on MAB deductions in more detail below.

1. Proportionality

The proposal is to deduct 50% of full pay until staff: (a) resume full duties, including marking and assessment; (b) the end of the boycott is announced by UCU or the mandate ends; or (c) the period during which staff are required to undertake marking and assessment duties has passed.

In the case of (b), this could potentially amount to a deduction across 159 days pay at a rate of $0.5 \times 1/365$, or 0.21 FTE (21%) of an annual contract. In the case of (c), if the deductions are made for the applicable portion of April/May examination diet (as defined at <https://www.strath.ac.uk/keydates/2022-23/>) then this represents a deduction across 30 days pay (at $0.5 \times 1/365$) or 4% of an annual contract. It is unclear exactly when the deductions will be applied for a given member of staff.

In stark contrast to these deductions that could reasonably place staff into real financial hardship, a typical workload model of a staff member in a department with substantial marking spread across examinations and final year project marking equates to a total *year-round* FTE of 0.03-0.04 FTE (3-4%). Many staff have **much** more limited obligations, such as one-off in-person assessments, upgrade and thesis vivas, or the assessment of student presentations. In many cases, and across many departments, these tasks may not even be deemed sufficient to quantify in workload calculations (when a workload model is even in operation).

Strathclyde is therefore adopting a one-size-fits-all approach that does not relate to the actual duties boycotted by individuals. This automatically fails any test of proportionality.

The email communication received by all staff from Mr [redacted – section 38(1)(b) of FOISA] on Tuesday 25th April 2023 asserts that the basis for these substantial and - we contend - unjustifiable deductions is “in recognition of the severity of the impact of a marking and assessment boycott on students”. This is not a legal justification for salary deductions; see below for information regarding the principle of *quantum meruit* which case law dictates should be applied in these situations.

Strathclyde is not proposing to determine on an individual basis whether staff are intending to carry out these duties. It is necessary to show that *every individual staff member* subject to deductions for participation in the boycott was required to perform specific duties, and chose not to do so: i.e. that they chose to boycott those duties at that time.

Consequently, the deductions proposed are grossly disproportionate, and contrary to the judgment in *Miles v Wakefield Metropolitan District Council* [1987], where the principle of *quantum meruit* was identified as the correct one to consider.

Mr [redacted – section 38(1)(b) of FOISA] email also does not even attempt to make any assessment of the actual workload implications of the MAB on any employee:

Whilst there is no legal obligation to pay any salary in these circumstances, the University has currently decided that payment will be made to those participating in the marking and assessment boycott equivalent to 50% of salary, whilst reserving

the right to deduct pay based on 100%. This is in recognition of the severity of the impact of a marking and assessment boycott on students.

However, if this is not the position, and if Strathclyde wishes to assert a lawful method for calculating deductions other than *quantum meruit*, we must ask Strathclyde to state it. Specifically, we would like to query on what basis you have arrived at the figure of 50% as a fair deduction. Please clarify whether the university is treating the deduction as a set-off of projected damages for breach of contract against employees' full salaries. If so, please explain exactly how the value of the potential damages to be set off has been calculated. We would expect the university to be able to provide costings for alternative provision to cover the ASOS. Alternatively, if the university believes it will be paying a sum which represents the value of the work staff have actually done (the *quantum meruit* discussed above), please explain clearly how that value will be assessed. It is our view that even when engaging in ASOS the value of work staff deliver individually is easily equal to 100%.

2. Deductions prior to boycott participation

We maintain that up until the time that staff are required to perform marking duties, they can ultimately decide not to perform them. *It is not possible to fail to fulfill an employment obligation that does not yet exist.*

Mr [redacted – section 38(1)(b) of FOISA] email sets an unreasonable and false three-day deadline for the submission of the form, despite the published University policy stating clearly that staff can fill in the form at any time (https://www.strath.ac.uk/professionalservices/media/ps/humanresources/industrialaction/Marking_and_Assessment_Boycott_FAQs.pdf).

The email of 25th April 2023 also severely misrepresents UCU's FAQ, stating that 'As the UCU guidance confirms, you are required to confirm, when asked, if you are participating in the marking and assessment boycott.' This is simply untrue. The relevant quotation, with key points highlighted (our emphasis) is:

If you are asked about whether you are participating in ASOS including the marking and assessment boycott, **you should respond only in terms of what action you have taken/are currently taking, but not answer about future intentions regarding ASOS.** This will mean that **employers will need to keep checking for confirmation** as to whether or not you have participated in ASOS and what forms of ASOS you have participated in and when. If you are asked directly whether you participated in ASOS in the past or are participating in it now (whatever the timeframe, be it last week, yesterday, or today) you should respond truthfully, **but you should not declare your intentions regarding future Action.**

It is potentially lawful to make *proportionate* pay deductions for 'partial performance' following a contractual breach as outlined in the previous section, but 'partial performance' in the form of failure to fulfil a contractual obligation can only begin at the point in time when the contractual obligation concerned first materialised.

Therefore, as presented, the form risks pre-boycott deductions that are a deduction from salary covering a period of time during which staff are not yet engaged in a boycott,

particularly given the errors in language in the email announcing the deductions. We believe such deductions would be simply unlawful.

Furthermore, the *threat* of disproportionate deductions from staff who have not yet made a decision to participate in the boycott but are contemplating doing, both separate from and combined with the false claim that notice must be given in advance, also likely constitutes unlawful employer intimidation towards those staff, contrary to Human Rights Act and TULR(C)A 1992 provisions protecting the right to freely participate in lawful industrial action.

3. Variation of contract

Strathclyde has not approached the recognised trade union (UCU) to establish the policy on ASOS and it has never been accepted as agreed policy by the union. Furthermore, in reference to any period in which marking and assessment predominantly occurs, it is not set out in general staff contracts that during any such ‘marking period’ staff would be obliged to spend 50% or more of their time on marking and related activities.

Staff are normally allocated marking work by managers, typically by discussion in teaching teams, at the start of the academic year, with variation negotiated once student numbers are confirmed. Marking is due at various times in the year, and internal deadlines not pertaining to progression or graduation are frequently moved.

Crucially, staff are not required to accept work from others except in very limited circumstances. Staff are limited in their marking and related duties by multiple factors, from professional expertise to knowledge of the marking scheme and course expectations. There is no requirement on any staff member to mark work that they have no expertise in, and students expect that their work will be marked, second marked, and quality assured through proper processes. In most cases, the first marker will be the staff member who taught the course.

To provide an illustrative example, a staff member who is expecting work to mark in early May would not be obliged by contract to perform any marking-related duties prior to that point; nor would they be obliged to announce their intention to refuse such duties before they were offered.

We are very concerned that Strathclyde is setting a precedent that amounts to a *de facto* unilateral contractual change on all staff that implies that such staff will be obliged in future to accept greater quantities of additional marking, including potentially marking outside their areas of expertise or teaching. This would be a significant contractual change, and one that we strenuously dispute.

We believe this point is of critical academic importance. Strathclyde is a research-intensive university that puts primacy on research-led teaching where research-active academic specialists perform the lead role in course teaching, and where students expect their work to be marked by the same specialists. Our scholarship and Strathclyde’s reputation are at stake.

4. National Minimum Wage and Living Wage

As we understand it, the University of Strathclyde is proposing to make deductions for ‘partial performance’ at 50%, but are not planning on decreasing the hours worked by staff.

The University of Strathclyde claims to pay no staff at any rate lower than the Scottish Living Wage, which is currently £10.90 per hour. This policy decision is central to many and repeated claims around the University of Strathclyde being a “socially progressive” employer.

If a member of staff has their pay cut by 50% with no loss of hours, a staff member on Grade 7 point 33 will earn only £10.85 per hour, which is below the Scottish Living Wage; many of our Research Associates, Teaching Associates, and Knowledge Exchange Associates fall into this category. All staff on Grade 6 (including Research Assistants, Teaching Assistants, and Knowledge Exchange Assistants) will also be in this category.

With regards to the National Minimum Wage, £10.18 per hour, the equivalent cut-off points for staff deducted 50% of their pay occurs at Grade 7 point 30. We believe that the courts would rule the National Minimum Wage a mandatory minimum, because this is also a requirement when staff are subject to other deductions from salary.

We must also ask whether Strathclyde will also guarantee that staff subject to deductions will be paid no less than the Scottish Living Wage.

Conclusions

Strathclyde must withdraw these threats to make unlawful deductions of staff pay, and must make it clear that staff are under no obligation to declare participation in this action in advance. The evidence at present does not support the proposed deductions being proportionate (and therefore lawful) and so asking staff to submit data so that they can have their pay deducted on this basis is manifestly not a reasonable management instruction. Further to this, the email from Mr [redacted – section 38(1)(b) of FOISA] of the 25th April 2023, with its multiple inaccuracies and misrepresentations of University *and* UCU policy could reasonably be construed to constitute unlawful intimidation.

Many universities in the sector have adopted a more sensible position of recognising the reality of student submission processes and internal flexibility around deadlines and proposed deductions on or around the final due date for marks. We anticipate that those institutions that have not yet changed their position will be robustly challenged by UCU. It would be regrettable if the reputation of this university was tarnished by such actions, particularly given the more people-oriented approach adopted at neighbouring universities and beyond.

There is a wide range of variation in the duties of staff who are called upon to mark work at Strathclyde. A one-size-fits-all approach is not consistent with legal principles of proportionality, whether by *quantum meruit* or by other means. Strathclyde has not applied its mind to this question concretely in relation to individual circumstances, which the law requires.

In practice, we assert that the University of Strathclyde **is accepting** partial performance and is not sending staff home. Consequently, we are entitled to ask formally how this 50% figure was arrived at and explicitly request that the full justification for, and calculation of, this

proposed deduction is provided immediately. Our view is that these deductions are excessive and unlawful for most, if not all, members of staff to whom it is applied. We further contend that these deductions are purposely punitive and serve to inflict distress and financial hardship upon staff members.

We urgently demand that the University reconsiders its position. The current situation is extremely damaging to Strathclyde's reputation, not least because it simply ignores the wide variety of staff who participate in marking our examinations and assessments. The payment of staff at rates below the National Minimum Wage is illegal, and that below the Scottish Living wage gives lie to Strathclyde aspirations to be 'people-oriented' and 'socially progressive'.

Unless the University is prepared to engage in meaningful negotiation with UCU we will be compelled to consider what further action we might take. This is clearly urgent given the artificial, and inconsistent, deadline that the University seeks to impose for reporting, Friday 28 April.

We look forward to your reply.

Yours sincerely

[redacted – section 38(1)(b) of FOISA], on behalf of the University of Strathclyde UCU Committee

cc: James McDonald, Principal and Vice Chancellor, University of Strathclyde

cc: Mary Senior, UCU Scotland Official

cc: Jo Grady, UCU General Secretary

cc: Humza Yousaf MSP, First Minister

cc: Graeme Dey MSP, Minister for Higher and Further Education

cc: Karen Watt, Chief Executive, Scottish Funding Council

Fol Document 9

[redacted – section 38(1)(b) of FOISA]

ucu@strath.ac.uk

Our Reference: 202300355517

Your Reference: Strathclyde UCU response to the proposed deductions

18 May 2023

Dear Derek,

Thank you for copying me into your email of 27 April 2023, which relates to pay-docking at the University of Strathclyde as a result of UCU members undertaking industrial action.

As regards the issue of pay-docking, it is my position and that of the Scottish Government, that universities are autonomous institutions and matters relating to pay, working conditions and pensions are for them to determine and therefore the Scottish Government has no locus to directly intervene.

Nevertheless, I do expect that fair work principles to be applied in the sector and the Scottish Government expects that employers, workers and trade unions work together to reach the right decisions and ensure workers are treated fairly – this is central to our Fair Work approach.

UCU wrote to me recently regarding pay-docking at one institution, Queen Margaret University, and I raised the issue with the Principal during my recent visit to the University. I am also due to meet UCU representatives on 24 May where I will seek an update on the issue of pay-docking at the University of Strathclyde and across the sector.

Yours sincerely

GRAEME DEY

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27 April 2023

Dear colleague

As you will be aware members of the University and College Union (UCU) are currently in dispute with university employers over long overdue improvements to pay and working conditions. Having taken strike action in recent months, staff are at work but have recently begun a marking and assessment boycott, which will impact a range of activities including exam invigilation and the processing of marks.

You may not be aware, but vice-chancellors and principals across the UK are, on the recommendation of the employer body Universities and Colleges Employers Association (UCEA), now threatening to deduct up to 100% of staff wages for this action short of strike. In Scotland universities that are withdrawing 100% of wages are Queen Margaret University and the University of the West of Scotland. To be clear: staff are at work and carrying out most of their duties, including teaching, lecturing, researching and supporting students.

Making such punitive and disproportionate salary deductions is not only deeply vindictive but also counter-productive. These threats will not bring the dispute closer to a resolution and risk worsening any disruption. Already, members at QMU have announced an additional 18 days of strike action starting on 10 May in response to the university's punitive decision. It is also plain to see that administering these attacks is a poor use of a university's time and resources, and makes a mockery of the concept of Fair Work.

Staff are the backbone of our universities and dedicate their working lives to support students, ensuring they can get the best out of their time studying. They deserve to be treated with respect at work and certainly do not deserve to be on the receiving end of massive deductions in a cost-of-living crisis.

I am urging you to write to principals in your nearest university in dispute and demand that they withdraw their threats and resolve the disputes as quickly as possible.

If you need more information or I can be of any assistance then please be in touch.

Yours sincerely

Mary Senior
Scotland Official, UCU

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[redacted – section 38(1)(b) of FOISA]

[redacted – section 38(1)(b) of FOISA]@UCU.ORG.UK

Our Reference: 202300355470

Your Reference: UCU letter - Deductions to university staff pay

25 May 2023

Dear Murdo,

Thank you for your letter of 27 April 2023, which relates to pay-docking in the higher education sector as a result of UCU members undertaking industrial action.

It is my position and that of the Scottish Government, that universities are autonomous institutions and matters relating to pay, working conditions and pensions are for them to determine and therefore the Scottish Government has no locus to directly intervene.

Nevertheless, I do expect that fair work principles to be applied in the sector and the Scottish Government expects that employers, workers and trade unions work together to reach the right decisions and ensure workers are treated fairly – this is central to our Fair Work approach.

In your previous letter on this issue, which I responded to on 10 May, you noted the specific example of pay-docking at Queen Margaret University and I am pleased to see that they recently stepped back from their initial stance, which has resulted in the calling off of strike action.

I look forward to our upcoming meeting, where we can discuss this issue across the sector at greater length, if necessary.

Yours sincerely

GRAEME DEY