To: Staff Affected by the Industrial Action

STRIKE ACTION BY NUT AND ATL ON THURSDAY 30 JUNE 2011

As you are aware, the NUT and ATL have voted in favour of a national strike to defend the current teachers’ pension scheme. This industrial action will take the form of a national strike on Thursday 30 June 2011. The strike will last throughout the day and your place of work could be affected.

If you have never been involved in a strike at your place of work, you may be uncertain how it could affect your employment rights. This letter advises you of what is expected of you, whether you are a member of a union or not.

Staff in Voluntary Aided, Trust and Foundation Schools and Academies

For staff in Voluntary Aided, Academy or Trust Schools, please note that all references to “Council” should read as “Governing Body” as your employer. This letter sets out the council’s expectations and you are covered by the same entitlements and obligations in accordance with legislation. However, your governing body, as your employer, may issue additional advice or instruction.

General Points for ALL Staff

1. If you are one of those balloted by the unions (even if you are a union member who did not receive a ballot paper) and are called out on strike, you are protected against victimisation. In other words, if you do take strike action and so break your employment contract, any penalty such as dismissal or stoppage of wages could only be applied even-handedly to all those taking part in the action. You cannot be singled out.

2. The same principle applies after the strike is over: you will not be treated less favourably as a striker in any way. The only record of your action will be the record of your salary deduction and the potential loss of pensionable employment for the days on strike (as detailed on point 15 below).

3. If you are a union member, you must either work normally or not at all on the strike days. For every day on strike a deduction from a teacher’s salary will be calculated at a daily or part-daily rate based on the day’s salary being 1/365th of a year.’ The deduction will be taken from your salary payment in a few months’ time. This deduction is made in lieu of damages for your breach of contract.

4. If you are not a member of NUT or ATL, or have decided not to take strike action, you must work normally even if it means crossing a picket line to get into work.
Employees who have not been balloted and notified to the Council as strikers will not be legally protected by the union’s ballot (apart from those individuals who have lately joined or did not receive ballot papers). Such a person, who failed to report for duty, whether out of sympathy with striking colleagues or for any other reason, would have committed a serious breach of contract. If you are in any doubt about this, you should ask your service’s HR team for advice.

6. If you are a union member but employed in essential or emergency services which have to be maintained so as not to put service users at risk, you may be given clearance by your union to work normally under an agreement with the Council. Your union officials or stewards will inform you if these cover arrangements include you.

7. If you attend work on the strike days the onus is on you to inform your Headteacher/manager that you are at work. Failure to do so will result in the deduction of pay (as detailed in point 3 above).

8. If you are not a union member you may be asked by your manager to work different hours or at a different location so as to keep a safe level of staffing. If your contract does not allow for this, you may be laid off for no fault of your own. In that case you would be entitled to some protection of your earnings.

9. If you are not a union member and you are asked to work different hours or at a different location within the scope of your contract and you choose not to comply, you may be laid off. In this case you would lose pay.

10. If you do not attend work you will not be compelled to carry out duties which do not belong to your own job. You may be asked to work at a different location, or to carry out tasks that are common to all jobs at your work location, but even if you are asked you do not have to carry out tasks which are a specific part of someone else’s job.

11. If you wish to attend for work, the council will endeavour to support you. If you have any concerns please contact your headteacher/manager before the strike day.

12. You may not take annual leave, flexi-leave, or time off in lieu on the strike days unless it has already been booked with approval by your Head Teacher/manager before 15 June 2011. If you do not take leave already booked, you should not use it to picket your place of work, since in that case you will be considered to have taken part in the strike.

13. “Working at home” and “from home” are not arrangements to be used to enable some employees to avoid the difficulty of crossing a picket line. It will only be acceptable if these arrangements are part of your normal working week, and you must notify your Head Teacher/manager of your intentions.

14. If you fall sick on a strike day, you will be able to preserve your sick pay by sending in a medical certificate – a self-certificate will not be enough – together with a short signed statement that if you had been fit you would not have taken strike action. You may be able to claim back the cost of a medical certificate. You must also phone in as usual in accordance with the absence management rules.
15. If you go on strike and lose pay, you will also lose the benefit of any pension contributions for that strike period. Employees who have any queries regarding their pension contributions should contact your school’s HR Service Provider.

16. Your current period of “continuous service” will not be broken for the purpose of reckoning your holiday, sickness, maternity and redundancy pay entitlements.

17. Employees are reminded about the Council’s policy on the personal use of electronic communications equipment. It is not acceptable to use the council’s email, intranet or other electronic communications for any activities involving the furtherance of the industrial action.

18. Further questions and answers regarding the industrial action can be found at Appendix 1: Industrial Action – Frequently Asked Questions.
Appendix 1

Industrial Action – Frequently Asked Questions

Q1: I want to attend work, but don’t want to cross the picket line. What should I do?

A Whether you are a member of a trade union or not, the choice is yours. If you don’t cross the picket line then, for every day on strike you will lose 1/365th of your annual salary (pro rata if you are part time) if you are a teacher and an hour’s pay for each hour not worked if you are a member of the support staff.

Q2: I’m worried that the pickets will prevent me from coming into work. What can I do?

A The trade unions have the right to picket peacefully in an attempt to explain the reason for the industrial action and to persuade you not to attend work. This does not mean that crossing the picket line will be easy – emotions are often heightened during industrial action.

Q3: If I go on strike will I be paid?

A Only teachers in the NUT and ATL have been balloted on strike action. You must either work normally or not at all on the strike days. If you chose not to work then the deduction from your teacher wages will be calculated at a daily or part-daily rate based on the day’s salary being 1/365th of a year.

Q4: I work part time/on a rota shift pattern and the strike day is NOT one of my normal working days. What do I do – what will happen?

A You need to tell your line manager that you will not be on strike and then no deduction will be made from your pay.

Q5: I work part time and I intend to strike. What will be deducted from my pay for the strike?

A The deduction for part time teachers will be equivalent to 1/365th of your annual salary pro-rata.

Q6: When will the deduction from my wage take place?

A The deduction from your salary or wages payment will be taken at an agreed date after the strike. Further information will be available nearer the time.

Q7: What do I do if I report to work but my place of work is closed?

A Check with your manager the day before to see whether your place of work is open, and if not, what you should do. It is your responsibility to find out what alternative working arrangements have been put in place.
Q8: Only a few members of staff are going to be at work during the strike – is this safe?
A The manager of the area where you work should undertake a risk assessment to ensure that it is safe for staff to work.

Q9: Can I work from home on the strike day?
A No, not unless this is part of your normal working arrangement – in which case you need to notify your line manager of your intention.

Q10: Can I take leave, flexi-leave or time off in lieu on the strike day?
A No, unless this leave was agreed by your line manager before 15 June 2011

Q11: What if I am sick on the strike day?
A You must obtain a medical certificate from your doctor. If you have to pay for this, we may reimburse you.

Q12: I have been notified that the school(s) that my child(ren) attend(s) may not be open due to the strike. Can I take a day's parental leave to look after them?
A There should be sufficient time for you to make alternative childcare arrangements. Parental leave will not be granted.

Q13: Can I work for another employer on the day of the strike?
A If you are on strike your employer will not give you permission to work for another employer, other than if you normally work these hours for another employer.

Q14: If I wish to pay pension contributions for the period of the strike what is the position?
A The strike days will not be recorded as reckonable and therefore will not be used in any calculation for pension purposes. There is no provision in the TPS for teachers to buy back strike days.

Q15: What do I do if I work in a Voluntary Aided School/Academy or a Trust or Foundation School?
A You will be expected to comply with the Council expectations as already set out as you are covered by the same entitlements and obligations in accordance with legislation as council employees. However, your governing body, as your employer, may issue additional advice or instructions.