1. INTRODUCTION

UNISON, GMB and UNITE trade unions have recently notified employers of a joint Trade Dispute over pay.

The pay dispute is a national issue rather than local to either London Borough of Barnet or an individual school. UNISON, GMB and UNITE rejected the 1% offer made by the NJC and as a consequence balloted members to take industrial action for improved pay rates.

UNISON, GMB and UNITE have confirmed that there will be one day national strike action on Thursday 10 July 2014.

As you will be aware, there is a national trade dispute in relation to teacher’s pay, pensions and workloads. As advised in previous correspondence, the NUT took national strike action on 26 March 2014. The NUT has now confirmed that a national day of action in England and Wales will take place on Thursday 10 July 2014.

Voluntary Aided, Foundation and Trust schools and Academies should have received separate notification from UNISON, GMB, UNITE and NUT of their intention to take strike action on 10 July 2014.

2. OVERVIEW

Previously, national and regional employers’ advice, which we support, suggested that we treat any forthcoming dispute in a low-key fashion. To this end, contingency plans will need to be made to cover services; governing bodies and head teachers should nevertheless handle this action in a non-adversarial fashion.

The overriding duty of Headteachers is to keep the school open and operating safely and satisfactorily. Heads should aim to keep schools open to try to maintain continuity of education provision, taking into account health and safety requirements and any class size limits.

DfE guidance states that within maintained schools the decision to open, partially open or close a school is an operational matter and therefore falls to the Headteacher. Within academies the Academy Trust has overall responsibility for running the school but in practice the decision to open or
close may be delegated to the Headteacher. In either case it would seem sensible and good practice for Heads to consult with the chair of governors before making any decision.

Whilst there is the potential for disruption in schools as a consequence of the strike action, it does not mean that schools are unable to continue to provide a safe environment for staff and pupils. If the assessment, in consultation with the Chair of Governors, is that a safe environment cannot be provided, you may need to take a decision to close the school and should notify the Local Authority of your decision.

3. WHAT IS INDUSTRIAL ACTION?

Strike action means that staff do not attend work on the day that the action is taking place and do not need to contact school on the day to indicate whether they will be attending work. Teaching staff should not be expected to prepare any work for classes that they would have taught.

Employees are deemed to be taking part in industrial action if they:
- collectively withdraw their labour
- refuse to undertake some of their duties
- refuse to carry out reasonable instructions
- take part in a sit-in, go-slow or work to rule
- take part in picketing.

It is unlikely that staff who are not taking industrial action will be prepared to agree to carry out the work that those taking the action would have undertaken. Regulation 7 of the Conduct of Employment Agencies and Employment Business Regulations 2003 makes it unlawful for agencies to supply or introduce work seekers to replace employees who are undertaking official industrial action if the agency is aware of the action. Therefore it is not advisable for governing bodies to seek to engage the services of supply teachers for this purpose.

Where picketing takes place, employees not directly involved in the industrial action may refuse to cross picket lines. Such employees can normally be regarded as being on strike and treated accordingly. Occasionally however, employees may be willing to cross picket lines but are reluctant to do so for fear of their safety. In such circumstances, the governing body should try and ensure that staff are given every protection in crossing the picket line, or where practicable, is given the opportunity to work at another establishment. If the governing body considers a member of staff has made every effort to cross the picket line but was unable to do so, then the governing body may decide not to treat their absence as industrial action.
4. PLANNING FOR 10 July 2014

In the lead up to the strike, headteachers should take the following action:

a. Numbers taking action
   Check which staff are union members and ascertain whether they are likely to participate in the action. Staff are not obliged to divulge this information, so this needs to be conducted sensitively. In most circumstances a simple enquiry of staff will help to assess the impact that the days of action are likely to have. This exercise should be conducted by Friday 4 July 2014 to allow time to prepare contingency arrangements.

b. Notifying parents
   Notify parents as early as possible and preferably before the strike day of the impact of any strike action on the normal operation of the school. Sample letters can be obtained via Ask HR.

c. Notifying other service providers
   Consider the impact on any other service providers operating with or in the school that may be affected by the strike action such as catering, transport, therapy and advisory services and make provision for early notification to these services.

d. Notifying the Local Authority
   Further information will be made available in relation to providing information to the LA.

e. Employee Exemptions
   Previously some unions have agreed that the following can work normally in order that they do not suffer long-term financial loss, so local branches are likely to want to include exemptions for these categories of employees:
   - employees in their last year of service who are in the pension scheme
   - pregnant women who have notified their employer of their expected date of child birth unless the employer gives an assurance that they will not suffer detriment
   - employees whose state benefits may be affected if they take part in strike action.
   However it is important to check with the TUs whether these exemptions still apply as some TUs have reviewed their advice.

f. Sickness/annual leave arrangements
   Sickness properly certified and which has started before 10 July 2014 will not be affected. For those already on self-certificated or medical-certificated sick leave, it should be regarded as a continuing absence. Where sick absence is advised on first day of Industrial Action then whether absence will be regarded as sick
leave will depend on the exact timing of the notification by the employee. When notification is received up to the time that the action starts, then employees will be treated as being on sick leave. When notification is received after industrial action has begun the employee will be regarded as taking part in the industrial action absence and reported as such.

g. Contingency plans
Make contingency plans to ensure there is access to buildings and other property, vehicles, systems and information etc.
- ensure arrangements are in place to have all necessary keys and codes to permit access and exit from the premises as required on 10 July 2014. Where a key holder intends to take part in the strike he or she should give any access or exit keys to their line manager prior to end of their attendance on 9 July 2014.
- ensure that arrangements for employees to pass on keys, provide passwords or make available relevant information are in place.

h. Handling the media during industrial action
Even if you are media-trained don’t be tempted to speak to the media. Respond politely but firmly to media enquiries and do not give out your name or any contact numbers locally. Do not allow any external media people access to your site during the industrial action. You may get reporters at your school and possibly cameras too. There’s nothing you can do about this (unless they are obstructing the entrance in which case it would be a Police matter but this is highly unlikely).

i. Health and safety
Aim to keep schools open to try to maintain continuity of education provision, taking into account health and safety requirements and any class size limits.

Ensure risk assessments fully take account of any issues which may arise because of the strike action. Staff must be aware of their own health and safety obligations, so that they do not take industrial action without making appropriate arrangements for the ongoing safe operation and use of equipment or systems of work.

j. Instructions to non striking staff
Ask non striking employees to report to the school as normal on 10 July 2014. You should determine appropriate duties that can be undertaken on the day.

k. Visitors
Provide appropriate advice to any visitors to the school.
6. **ON THE MORNING OF THE STRIKE DAY**

On 10 July 2014 headteachers will need to inform the council of the impact the industrial action. It is important to know, not only locally, but regionally what effect and impact the strike has had.

a. Heads will need to have contingency plans in place for staff who may feel intimidated by pickets.

Pickets cannot use threatening, abusive or insulting words or behaviour, or obstruct the entrance to premises. The statutory Code of Practice on picketing says that large numbers may give rise to fear and resentment to those choosing/wishing to cross picket lines. The Code suggests a maximum of six pickets. Bearing in mind that we wish to maintain a low key position, headteachers should monitor the situation locally and keep communication channels with the senior official on the picket open, to ensure that reasonable conduct is maintained. Headteachers should bear in mind that there is no history of problems with pickets in Barnet which have in the past been well managed and courteous.

b. Heads will need to provide employees with advice about what to do if they feel intimidated.

c. Heads will need to inform staff of the implications of not crossing a picket line i.e. they will be considered to be on strike. It may, however be practical to allow employees to work from another location that is not being picketed.

7. **AFTER THE STRIKE**

a. **Pay**

Anyone who does not work normally on a strike day (unless prior approval for their absence has been given) will be counted as on strike and pay stopped. It is important that pay is stopped for everyone who goes on strike. Pay deduction is not a punishment for going on strike; it is a response to the breach of contracts involved. Ensure all absences are recorded on MYVIEW so that pay can be stopped in time. Everyone who attends for work in the usual way must be correctly paid.

**For teachers covered by the Burgundy Book**

Deductions from salary for members in maintained schools will be made in
line with section 3, paragraph 3.2 of the Conditions of Service for School Teachers in England and Wales (the 'Burgundy Book'). This specifies a deduction of 1/365 for unpaid leave of absence. Part-time teachers who take strike action will have a salary deduction calculation based on their normal contractual hours for the day of action.

b. Deal with any return to work issues with strikers in a neutral and practical way – the main objective is to return the school to normal as soon as possible and maintain a healthy working atmosphere. It is particularly important to recognise that the action is not happening in a vacuum and that longer-term damage needs to be avoided.

c. Anyone who goes on strike must not be permitted to make up the time by working longer after returning to work. Do not give strikers additional earning opportunities when they return to work.

d. Any member of a trade union who does not wish to cross a picket line will not be subject to any detriment other than a pay deduction for not being at work.

8. CONTACTS

Any updates to this advice note will be communicated directly to schools. The position on school closures will be posted and maintained on the council’s website.

Further advice may be obtained from:

- Deborah Shaw, School Business Partner on 0208 359 7937 or Deborah.shaw@barnet.gov.uk
- Ask HR

You can also access the advice from the Department for Education via the following link:

http://www.education.gov.uk/f00225488/strike-action-in-schools