

Strike in the State sector



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1. How to use this strike pamphlet

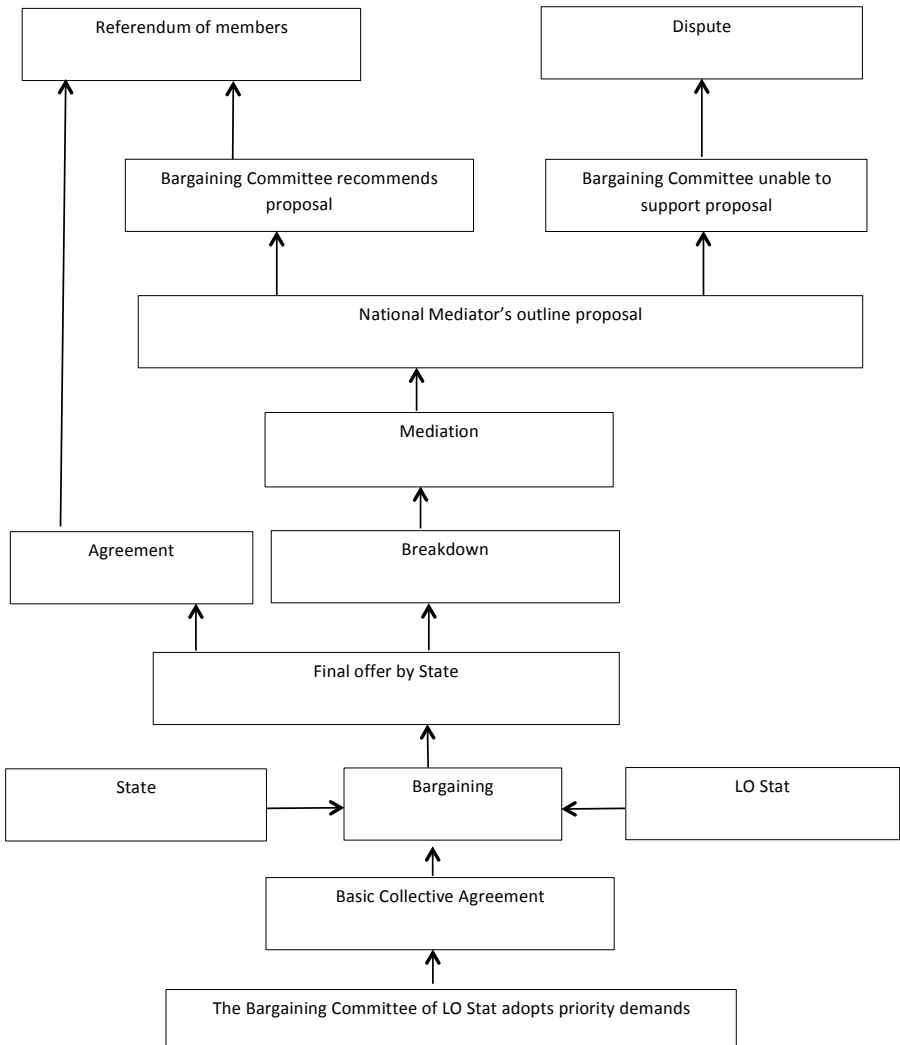
LO Stat has put together a pamphlet containing information on what being on strike in the State sector entails. This pamphlet is intended for use on courses, during preparations for collective bargaining and during strikes. It is also available in electronic form.

It is hoped that the contents of the pamphlet as a whole will be useful for courses.

Certain parts of the pamphlet will be useful for union reps during the preparations for bargaining and strikes.

2. The stages of the bargaining process

Voting rules § 51 of the Basic Agreement (Hovedavtalen i Staten).



3. On strike

3.1 What it means to be on strike/engaged in conflict for strikers and non-strikers

LO Stat is the confederation with responsibility for collective bargaining and the right to act as a party in negotiations on the Basic Collective Agreement (Hovedtariffavtalen i staten).

A strike is the weapon used by unionised workers to safeguard their terms of pay and employment. It is a powerful weapon and is not used lightly.

When LO Stat declares a strike, the membership withdraws its labour and the contract of employment is suspended temporarily. During a strike, all members of LO Stat will be encompassed by the dispute. In a selective strike, some of the members will come out on strike, while others will continue to work as normal. It is essential that strikers and members alike loyally follow the information and instructions given in a strike situation.

Being on strike means that the Basic Agreement and the Basic Collective Agreement cease to operate. This in turn means that all union representatives must break off all contact with the employer for the duration of the selective strike and that LO Stat will take on the responsibilities of employer for as long as the dispute continues.

The Civil Service Act and the Working Environment Act will continue to apply. This means that employee representatives who are not themselves on strike must also take part in meetings of nomination and appointment committees and on the working environment committee of the agency in question and must continue to perform their duties as safety officers.

3.1.1 Strikebreaking

Strikebreaking means performing the work of a person who has been ordered out on strike.

If an employer hires or uses contract labour to perform the work of striking personnel then this will constitute strikebreaking.

A strike can potentially have destructive consequences for both parties. A company may be entirely dependent on work continuing and an employer will therefore generally do everything necessary in order to limit the damage caused by a strike. Strikebreaking is not illegal, but is regarded as totally disloyal and morally reprehensible.

3.1.2 Calling off a strike

The strike will be called off when the parties have reached agreement or when compulsory arbitration is implemented. All striking members will then return to their normal workplace and resume their duties as soon as possible.

3.1.3 Other rules applicable during a strike

Other rules governing various circumstances for members called out on strike may be adopted by the central committee of LO Stat or by the Bargaining Committee.

If the bargaining leads to mediation and notice is given of a strike, meetings will be convened between the confederations and the Ministry of Local Government and Modernisation to negotiate on various issues. The minutes of these meetings will contain various provisions regulating issues such as: travel on official duty, courses, holidays, sick notes, exemptions, leave, deductions in pay, etc.

Information will be provided as the dispute proceeds.

3.1.4 Questions and answers

Strike benefit. LO Stat's Bargaining Committee will decide on the amount of strike benefit that is payable and the rules applicable to payment.

Insurance. Where necessary, LO Stat will take out insurance cover to ensure that, as far as possible, members enjoy the same level of cover as when they are working.

Pay. Members who are called out on strike are entitled to receive payment of accumulated pay before the dispute starts. Since pay is paid out in advance, employees who are called out on strike after their paydays will receive pay during the dispute. When the dispute is over, the employer will make deductions in pay for the strike period.

Other benefits. All benefits from the employer provided for in the collective agreement, the personnel handbook or the individual contract of employment will cease during a strike.

Membership of the Norwegian Public Service Pension Fund continues during a strike. The accumulation of pension-earning service time continues.

Members on job market schemes, internships or special rehabilitation programmes will not be called out on strike. The reason for this is that they are not formally employed by the agency.

Courses and conferences organised by trade unions should wherever possible be avoided during periods of strike/dispute.

Performing other work for the same employer is not permissible.

Employment and termination. The contract of employment of the individual employee does not cease, but the parties are released from their duties temporarily. This involves the suspension of the rights and obligations that follow from the contract of employment. The employees are not under an obligation to work and the employer will not pay wages. When an

employee returns to work after a stoppage, the normal rules on appointment of personnel will not apply, cf. § 22.4 of the Civil Service Disputes Act. Individual termination during a strike will not be permitted for a person encompassed by the collective termination.

Keys and other tools belonging to the employer must be returned to the workplace if required by the employer.

New members. If you joined after the termination of the collective agreement you will not be affected by the stoppage. The Labour Court has ruled that: «a collective termination of jobs does not cover other parties than those employees who were members of the union at the time notice of termination was given.»

Withdrawals. According to § 13 second sentence of the Civil Service Disputes Act, members or branches that withdraw from the union in connection with a strike will not be released from their obligations if ordered out on strike. Accordingly, it is not possible to withdraw from the union to avoid going on strike.

4. Organising the strike

4.1 Strike committees

In the event of conflict in LO Stat's wage agreement areas, the practical leadership and organisation of the strike will be the responsibility of a central strike committee. In the event of disputes in the State sector, the Bargaining Committee will act as the strike committee. If the dispute encompasses the wage agreement areas of both the State and Spekter, the central committee of LO Stat will act as the strike committee.

4.1.1 The national strike committee

The national strike committee will decide whether LO Stat should form regional strike committees.

4.1.2 Regional strike committees (district secretaries, LO Stat)

The strike committee will be headed by the district secretary. In addition, the committee will consist of at least one representative of each of the federations concerned. The regional strike committees will coordinate and organise joint activities for the local strike committees.

4.1.3 Local strike committees

Forming local strike committees is the responsibility of the federations. The local strike committees are responsible for implementing the strike at the agencies at which the members have been called out on strike.

The individual federations will notify LO Stat's district secretary of the composition of the local strike committees.

The district secretary will coordinate collaboration at local level, disseminate information and act as an adviser to the local strike committees. The district secretary is responsible for making information material on the strike available. Checklists for local and regional strike committees can be found in § 5.2.1.

NB! Under the Collective Agreement, representatives on the strike committee who have not been called out on strike will not be entitled to time off to work for the strike committees.

4.1.4 Union representatives and the representative(s) of the employer

In order to be seen to be acting correctly in his/her relationship with the striking personnel the general manager/employer's representative will generally seek to establish a dialogue with the union representatives about practical matters. The union representatives may also take the same view. It will therefore be sensible for the union representatives and the representative(s) of the employer to sit down together and discuss the practical aspects of a strike.

4.1.5 Union representatives for other unions at the agency

It is also recommended that steps be taken to arrange a meeting with union representatives for other unions represented at the agency in advance of a strike, irrespective of whether or not they will be called out on strike at the same time. At a meeting of this nature it will be important to reach an understanding on how members of the other unions will be expected to act during the strike, for example with regard to strikebreaking. The other unions should be urged to apprise their members of the situation. In a selective strike it may be the case that even if all the confederations are in dispute with the State, the agencies/geographical areas in which union members are called out may vary. For this reason it is important that there should be a common appreciation of the fact that some members will be striking on behalf of the membership as a whole.

5. Information and communication during a strike

In a dispute situation it will be important to communicate information to members who are on strike or at work. It will be vital to get our message across to the members and the general public to let them know why the strike has been called and what the status of the strike is at any given time.

It is essential to communicate that the intention of the conflict is to target the employer, but that in doing so it is not always possible to avoid affecting third parties. A strike in the public sector will always have consequences for the general public to a greater or lesser extent.

LO Stat, along with the other confederations concerned, is responsible for providing the media with general information on the situation. The district secretaries will give important information, at the same time as which they will coordinate collaboration between the strike groups of the various federations at local level and act as advisers to the local strike committees. LO Stat and the federations are entirely dependent on the federations, unions, branches and local and regional strike committees passing on the information they receive to the striking members.

Local strike committees and pickets may be contacted by the media during the course of a strike. The message they give must be the same as in the information material. It is important that they show motivation and optimism and that if they are asked questions that they have difficulty answering they should refer the questioner to the committee member appointed to deal with the media or to the district secretary.

If the collective agreement has been referred for mediation then only the National Mediator has the authority to comment on the progress of the mediation proceedings.

5.1.1 The information channels used during pay negotiations will include:

LO Stat's web site, flyers, social media, press conferences, TV and radio, meetings convened by the district secretaries, regional/local strike committees.

The federations also have their own information channels which the members must follow.

It will be necessary to inform employees who are not on strike, i.e. union members who have not been called out on strike and/or non-unionised personnel. LO Stat have to give information about: why we strike, which units are involved, when the strike will start, what constitutes strikebreaking and how non-striking colleagues will be expected to behave during the strike.

Information must also be provided on issues such as membership meetings, assemblies, the status of the pay settlement process, when the strike is called off etc.

During the preparatory phases of a strike these will be matters for which other solutions must be found, so that information can be communicated using channels such as e-mail, text messages and, where applicable, social media. If you are shut out of your workplace remember to give an e-mail address and mobile phone number where you can be reached.

5.2 Checklists for use in a strike

5.2.1 Local strike committee

The responsibility of the federations to establish local strike committees.

- The composition of the strike committee (for example, chairperson, media contact, list coordinator, exemption contact, coffee chief)
- Call-out of members: check strike lists (name, date of birth, position/function, workplace, full time equivalency)
- Compile contact information and specify planned reasons for absence during the expected strike period:
 - Private telephone numbers and e-mail addresses
 - Bank account numbers for refunding strike benefit
 - AFP (early retirement scheme)
 - Senior days for older personnel

- Holidays
- Compassionate leave
- Etc.
- Map need for strike material and report to regional strike committee (T-shirts, posters, banners, vests etc.).
- Set up strike office with necessary equipment (telephone, PC, printer, photocopier, paper, pens etc.).
- Arrange meeting point/assembly point for strikers. This should be done in consultation with the regional strike committee.
- Draw up a picket list with a minimum of two pickets at each picket point. Reserves must be included so that there will at all times be more than one picket at each site. If a member is unable to turn out for picket duty this must be reported to the head of the strike committee.
- Record an attendance list.
- Notify pickets of their duties. See the «Strike» pamphlet for an example of instructions for pickets.
- Notify the employer of the points at which pickets will be posted.
- Maintain close contact with the pickets so that the strike committee can deal with any unforeseen situations and problems at short notice.
- Maintain close contact with the appropriate personnel in the local organisations of other confederations with members on strike at the agency.
- Establish a strike office (outside the workplace) to answer questions put by striking members and others etc.
- Arrange strike meetings for the members.
- Prepare information material for the pickets: information documents, list of exceptions and exemptions that have been granted.
- Uncover and report strikebreaking to the federation and regional strike committee.
- Organise activities for strikers/nonstrikers. Aim: visibility and motivation.
- Spread information on various types of events; arrange for the equipment necessary for the event, for example: party tent, coffee, entertainment, tables and chairs, rollups. See also regional strike committee.

5.2.2 Regional strike committee (LO Stat's district secretaries)

To be set up and headed by the LO Stat district secretaries.

The tasks of the district secretary:

- Set up the regional strike committee to include at least one representative drawn from the federations concerned.
- Provide the committee members with the necessary training (what is happening? When is it happening? What happens in the events of the breakdown of bargaining proceedings? What can you say in response to media questions? What can you not say?).
- Keep up to date on exceptions and exemptions

The tasks of the committee:

- Collect contact info and roles (media contact, exemption contact etc.) from the local strike committees.
- Draw up lists for notification by text message, e-mail etc.
- Coordinate and organise joint activities in collaboration with the local strike committees.
- Assist with functions local strike committees have been unable to cover, e.g. helping to organise a strike office, allocating responsibility for café for striking members.
- Discover and resolve any problems that might arise.
- Collect and communicates applicable information to LO Stat at national level.
- Resolve questions of strikebreaking, if applicable with LO Stat at national level.
- Communicate media strategy (who says what).

Contact info:

- Draw up lists of who has access to office equipment (PC, photocopiers etc.).
- Remember: e-mail access at work, mobile phones, key cards etc. may be withdrawn by the employer.
- Media strategy - coordination with LO Stat and the federations at national level, and maintaining contact with the media.

- Lay plans for strike call-outs that may be of special interest to the media.
- Make sure information is available in English.

Draft meeting plan for:

- Strike committee.
- General meetings/meetings with local strike committees and, if applicable, collaboration partners.

Events:

- Book premises for various events.
- Plan events (visibility in local community/town square meetings). Remember to apply for permits.
- Stands.
- Strikers' cafe - buying in goods, if necessary.
- General meetings.
- Maintain contact with the strikers.
- Social events to keep commitment up.

Materials:

- Order necessary materials (posters, rollup banners, banners etc.
- Copy up flyers and arrange for distribution.

5.2.3 Instructions for pickets

Pickets must remain in the immediate vicinity of the entrance(s) to the workplace.

Pickets must wear T-shirts, strike vests or other equipment issued to them by LO Stat showing that they are official pickets. The strike vests are not personal property and must be returned at the end of picket duty.

Inform the public and others about the reason for the ongoing conflict, who is on strike, and hand out LO Stat information material.

Expose any strikebreaking and report it to the local strike committee.

The pickets must do their best to keep themselves informed of any exemptions that have been granted. They must not use force to prevent people with a legal right to do so from entering the workplace, but must note down the names of the people in question.

The pickets must follow any instructions given by the police and in other respects behave in such a way that they avoid becoming involved in disturbances.

Pickets may answer questions from journalists but should as a general rule base their answers on the information contained in the strike material. Give the journalist a positive message. It is important that strikers are shown to be highly motivated.

Common questions put by the journalist might include the following:

- How many people are on strike? - (You will find information in the strike material).
- What effect will the strike have on the general public? (If you don't know the answer then refer the journalist to the union rep/information officer).
- Why are you on strike? (Refer to the message in the flyer).
- How long will the strike go on for? (As long as we have to, the solution is in the hands of the employer).
- Has anyone been exempted from strike duty? (If you don't know the answer refer the journalist to the strike committee).

It is important to get the message across that LO Stat's primary aim is to target the employer, but that it is not always possible to avoid affecting third parties. A strike in the public sector will always have consequences for the general public to a greater or lesser extent, but responsibility for this lies with the employer.

Refer to the press contacts for further information.

6. Preparations for bargaining

6.1 Basic Settlement and Mid-term Settlement (description)

LO Stat is the owner of the Basic Collective Agreement and conducts collective bargaining on behalf of the federations that have members in the State sector.

A basic settlement is a revision of the Basic Collective Agreement and is conducted every other year. The agreement is terminated by the parties and the bargaining encompasses demands and offers.

In a mid-term settlement the demands and offers relate only to the adjustment of pay, unless the parties have agreed otherwise.

The Basic Collective Agreement is the fundamental agreement that applies between the State as represented by the Ministry of Local Government and Modernisation on the one hand and LO Stat, YS-Stat, Unio and Akademikerne on the other. This contains the main rules governing, inter-alia, pay, working hours, holidays, leave and pensions.

6.1.1 Labour peace obligation¹

While the Basic Collective Agreement remains in force, no work stoppages, conflict or labour disputes must take place.

The right to pursue disputes applies in the case of Basic Settlements and Mid-Term Settlements, in the intervening period an labour peace obligation applies.

6.2 The process followed in collective bargaining

Bargaining commences at the start of April and ends at the latest on the eve of May 1. If the parties agree on the settlement, the outcome of their bargaining is circulated to the membership in preparation for a referendum of

¹ For a description of the labour peace obligation, see Section 20 of the Civil Service Disputes Act.

the members. Referendums are normally only conducted in connection with the Basic Settlements, unless the parties agree otherwise.

If the parties fail to reach agreement, negotiations break down. The parties must notify the National Mediator that there has been a breakdown in negotiations. The task of the National Mediator is to investigate whether a basis exists for the parties to reach agreement. Mediation² must commence within 14 days after the breakdown of negotiations. The earliest point at which mediation may be concluded is 14 days after it commences and it must be concluded no later than one week after a demand has been presented. If no agreement has been reached during the mediation proceedings a strike will ensue.

If agreement is reached, the outcome is circulated for a ballot of the membership. A ballot means that the members vote on the outcome. If a majority is in favour, the proposal will be accepted, if a majority votes against, the proposal will be rejected. If the outcome of the ballot is negative then a strike becomes a reality.

6.2.1 Who is encompassed by a strike?

All members of LO in the State sector wage agreement area will be encompassed by a strike.

6.2.2 Who is not encompassed by a strike?

Some employees must not be called out on strike. This is regulated in § 47 and § 48 of the Basic Agreement.

BA § 48 Head senior manager of the agency and the senior manager of the personnel function must not be called out on strike.

² For a description of the rules on mediation, see Section 14 of the Civil Service Disputes Act.

Exemptions - before the strike:

BA § 49.2. When notice is given of a stoppage, negotiations must be conducted without delay to determine which other officials are to be exempted from striking. This might apply to the senior manager of the operating unit or other essential coverage of the management function and the personnel function. The same applies with regard to employees that need to be present in order to avert hazards to human life and health or to prevent the destruction or loss of property, material, equipment, etc. This also applies to employees who need to be present for the same reasons in connection with the shutting down and resumption of operations.

The role of union representatives in the case of exemptions:

The parties at local level in the agency must attempt to reach a common understanding of which positions and/or functions are to be exempted from striking. The local union representatives have the final word in issues of this nature, normally subject to discussions with their own federation.

Exemptions - during the strike:

BA § 49.3 In addition, the employer, acting through the Ministry, may apply to the confederations for exemptions from participating in strike action for employees who for the reasons specified in No. 2, or other special reasons, need to be present or called back to work.

The role of union representatives in applications for exemptions:

LO Stat receives applications for exemptions from the Ministry. The final decision on these issues is taken by LO Stat.

It is assumed that the applications will have been discussed locally before they are considered by LO Stat. LO Stat will check with the contact person appointed by the federations.

BA § 47.3 Apprentices are not encompassed by the rules on collective termination in the Basic Agreement, except where this is expressly mentioned in the notice that is required to be exchanged between the State and the confederations. LO Stat's stance is that apprentices should be exempted from striking because this would affect the training of the apprentice, but would have no impact on the employer.

The following do not have the right to take part in labour disputes (strikes):

- senior civil servants³
- military service personnel (this is not laid down in statute but is regarded as certain law)
- non-union employees

6.2.3 Layoffs

An employer may lay off employees who have not been called out on strike by their federations, for example if members of other confederations are on strike.

6.3 Types of labour conflict

6.3.1 Selective strikes

Some members are called out on strike by LO Stat. These members strike on behalf of all the members. After a time, more members will generally be called out on strike. This represents an expansion of the strike. Selective strikes are the commonest form of strikes in the State sector.

6.3.2 All-out strike

All members of LO Stat are called out on strike.

³ for a description of senior civil servants see Section 22.5 of the Civil Service Disputes Act

6.3.3 Political strike

The purpose of a political strike is to influence the decisions of the political authorities or it may be directed at the management of the company. This will be a strike of short duration. A strike of this nature cannot be used to force through changes in conditions of pay and employment, since these factors will already have been regulated by the parties.

6.3.4 Lockout (the employer's means of conflict)

A lockout means that employers prevent employees from entering the workplace, thus preventing them from working. This often means that the employees will be laid off.

6.3.5 Blockade

A means used during a strike or lockout to make a stoppage effective. One example might be physical barriers for hired, non-union or other employees who have not been called out on strike. May be used by both the employees and the employer.

6.3.6 Sympathy strike

The purpose here is to support another ongoing legal conflict. May be permitted only after negotiations have been conducted between the Ministry and a confederation. Negotiations must be conducted within four days after a demand has been put forward.



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