

PREPAREDNESS FOR INDUSTRIAL ACTION - JOINT MSG/BMA GUIDANCE

Introduction

While there are no current plans for medical staff to undertake industrial action, MSG and BMA Scotland agreed that it would be helpful to discuss and agree some protocols which could be brought into play in the event that such action takes place.

Purpose

The purpose of this document is to support patient safety by outlining some jointly agreed principles, practices and protocols to promote clarity and co-operation between employers, unions, and staff in the conduct of industrial action, in the event that this takes place.

General Principles/Patient Safety

All parties agree that in the context of industrial action patient safety remains the primary consideration.

All parties agree that a proactive approach which minimises the necessity for the development of local arrangements at very short notice should be a shared aim.

In addition, communication between employers and BMA locally will be key to both protecting patient care and managing the industrial action in the best manner possible. This also extends to communication with staff, patients and primary care and service users

In the context of patient safety it is agreed that the principle aim is to maintain agreed Essential and Emergency services with as little risk to patient safety as possible. These services must be maintained at a safe level with at least minimum staffing levels.

Boards will have developed their own Local Resilience Plans which they will use to help manage local responses in the run up to, and during, industrial action. These should be developed in partnership with BMA through the Joint Local Negotiating mechanisms and should be clear on what the expected level of Essential and Emergency service that will be maintained during Industrial Action. They should also state what arrangements has been agreed with BMA in the event that there are insufficient staff to run an Essential or Emergency service on the day(s) industrial action is taking place.

It is also expected that prior to any industrial action Boards will consult with BMA Local Negotiating Committees (LNCs) on any elements of service planning, including notice to be given to patients of any likely cancellation of appointments, possible changes in working arrangements for medical and dental staff not participating in the industrial action and requests for additional working from that group.

All parties acknowledge that, despite the comprehensive contingency plans being put in place, a major and unpredictable mass casualty event or major incident may render those plans insufficient to maintain safe patient care. In that event derogations will be sought to allow staff taking industrial action to be recalled to work.

Derogations

In this section we set out the agreed arrangements for asking a group of medical staff to return to work during the period of industrial action in the event of a declared major incident that cannot be accommodated within existing resources available on the strike days.

To enable this local response BMA Scotland and MSG have agreed an approach by which the Medical Director or nominated Deputy of the relevant NHS Scotland employer(s) will pass details of the situation to the BMA via the contact details which will be supplied in advance of any industrial action. BMA Scotland will then consider whether the incident can only be mitigated by requesting relevant medical staff to return to work and where that is the case, a derogation will be approved.

Upon approval, the local employer should contact relevant medical staff and seek their return to work. The BMA will communicate with members as quickly as possible to confirm that the derogation has been agreed so that it is easy for members to verify it. They will contact picket supervisors on relevant sites and pass the message to any picketers who shall stand down the picket and, if relevant, return to work to assist with the major incident/emergency.

Medical staff participating in industrial action need not return to work unless the need for derogations is confirmed by the BMA. That being said, all parties recognise it may be necessary, as an exception, for an employer to simultaneously begin contacting doctors whilst notifying the BMA to seek confirmation of a derogation.

The above has been agreed so that there is a shared understanding of the agreed arrangements for derogation.

Picketing

BMA Scotland and Employers should seek to agree picketing rules, including locations, before the commencement of the action and include this in the local resilience plan. Employers must respect the right of union members to picket and unions must respect the need for picketing to be peaceful.

It is lawful to picket but the law imposes some limits.

Employees who approach a picket line may be spoken to, given a leaflet and the reason for the industrial action may be explained in a polite manner. The picket does not have the power under law to require people to stop or compel them to listen. Picketing by union members may only take place at, or near their own place of work. Employers will work with Unions to discuss picket supervisors.

The privacy and dignity of patients and services users will be respected at all times.

The number of pickets should generally not be more than 6 at any entrance or exit to the relevant worksite.

All employees and employers should ensure they are treated with dignity and respect during periods of industrial action.

Working with Staff to cover Priority Services

Maintaining critical clinical services through a period of Industrial Action will require support from all staff groups. These services must be maintained at a safe level with at least minimum safe staffing levels. Early engagement and discussion is essential and a clear understanding of the skill set that different Professional groups provide. Support for the staff working through these unusual circumstances is important and the contingency arrangements should detail how this support should be provided.

Deductions from Pay

Deductions from pay for doctors participating in strike action will be recorded in days and pay will be reduced by 1/31, 1/29 or 1/30th depending upon the month action takes place.