

Lead Employer Trust In the North East and North Cumbria

Junior Doctors Industrial Action 2023

Frequently Asked Questions

Information Bulletin

5 December 2023

Version 1.7

This Bulletin is to provide information for all Lead Employer Trust (LET) Postgraduate Doctors and Dentists in Training

If you have other questions that are not clarified in this Information Bulletin please contact :

- your People Officer within the LET,
- Or your BMA representative.

Where such questions are of general interest they will be added to this bulletin.

QUESTIONS AND ANSWERS

1 What is the proposed industrial action about?

The BMA have balloted junior doctor members on potential industrial action in order to achieve full pay restoration.

The strike is not between the LET and Postgraduate Doctors and Dentists in Training and the LET is working in partnership with the local education providers and the BMA to ensure that patient safety is not compromised in any way on the day of action.

2 What is the result of the ballot?

The BMA have announced a 'YES' vote.

Nationally, there was a 77.4% turnout, with 98% voting yes to strike.

3 What happens next?

The BMA has advised that action would be a three-day walkout on Wednesday 20th December 2023 (from 07.00am) until Saturday 23rd December 2023 (until 07:00am) and then a six-day walkout on Wednesday 3rd January 2024 (from 07.00am) until Tuesday 9th January 2024 (until 07.00am).

*** Full walk out — from 7.00am Wednesday 20th December 2023 until 07.00am on Saturday 23rd December 2023.**

*** Full walk out – from 07.00am Wednesday 3rd January 2024 until 07.00am on Tuesday 9th January 2024 (until 07.00am).**

Postgraduate Doctors and Dentists in Training who intend to strike are being asked not to begin any shift that is due to start after 07:00 on Wednesday 20th December 2023 or Wednesday 3rd January 2024 or before 07:00 hours on Saturday 23rd

December 2023 or Tuesday 9th January 2024. If you are working the Tuesday (19th) night shift or Tuesday (2nd) night shift that finishes after 7am, you will complete your shift (even if the shift ends after 7am meaning they work into the strike period) and hand over as usual.

The BDA have also balloted members who work under the 'Junior Doctor Contract' this include Core and Specialty Dental training in England and it is only these members working to that contract who work in Trusts where the BDA have a ballot that approves industrial action, this does not include Dental Foundation Training.

4 What will happen on these dates?

Please see the later section on picketing arrangements.

Locally this means that junior doctors may choose to participate in the action and therefore will be deemed as being on strike. Arrangements are already being discussed with local education providers, junior doctors and BMA representatives to ensure patient safety.

MAINTAINING PATIENT SAFETY

5 What if I have to be at work to ensure patient safety?

Patient safety is paramount. It is understood that the BMA will offer further advice and the local education providers will continue their dialogue with the BMA to ensure patient safety.

6 What happens if I want to strike but it is agreed locally that I should be at work to ensure patient safety?

In this case you will not be counted as on strike by the LET and will be paid as usual. However, the BMA will note that you are working whilst wishing to strike.

It is understood that the BMA will issue guidance to their local staff representatives in the near future.

7 What if I think there may be a patient safety issue on the dates?

You must raise any concerns you have about potential impacts on patient safety with your line manager within your local education provider to ensure that all risks are known and covered. Please ensure you comply with GMC Good Medical Practice.

8 I am due to rotate during January, will this go ahead?

All rotations have taken place in December and there is no more over this period of Industrial Action.

All rotations in January will rotate as normal.

9 Innovative Training Programme for GP Trainees

During this period of Industrial Action there is no Teaching due to take place.

HOLIDAYS AND OTHER LEAVE

10 Why has leave been stopped for those dates already?

As outlined above patient safety is paramount.

In light of this industrial action the local education providers have commenced planning for these days and assessing the impact of the action in order to ensure patient safety. As a result, unfortunately no annual leave, lieu time or study leave will now be approved for the above dates, or any shifts that span these dates and times.

For those staff who already have annual leave, lieu time and study leave booked for these dates, these will be honoured although you may be asked by your local education provider if you are prepared to work.

11 I am not in the BMA/HCSA/BDA. Can I strike?

If you are in another trade union/staff side organisation then you must work as you normally would on the given dates. It would be unlawful to take strike action if your union has not been successful in a ballot for strike action.

If you are not in any union at all then you are able to participate in the industrial action. However, you would not receive support from the trade union in the way that union members would.

12 I am in the BMA but have not been balloted. Can I strike?

BMA guidance for non-junior doctors is that you should come into work as normal.

13 What if I am sick on these dates and cannot come to work?

If you are on long term sick leave and have a GP note you will be paid sick leave as usual.

If you cannot come to work on these dates you should make sure you follow the usual local education provider sickness absence reporting process and the LET policy where you are required to submit a self-certificate.

JUNIOR DOCTORS

14 I am a junior doctor in the BMA. Will I have to strike because the ballot supports the strike?

No. The BMA has a mandate for strike action and will ask you to strike on the chosen dates. However, it is your personal choice whether to strike or be at work.

15 Will there be any personal repercussions if I strike or not?

There will be no detriment to staff who decide to strike, or indeed to staff who decide not to strike.

16 Can my line manager ask me whether I intend to be on strike?

Yes, because managers have the responsibility for ensuring safe patient care, and need to know who will be at work. Legally you do not need to tell your manager however we would request that you do inform your local education provider/manager given your duty of care to patients as per the GMC Good Medical Practice.

17 How will line managers know who is on strike?

Your line manager within your local education provider knows who is expected to be at work on the given dates, and anyone who is not at work without prior arrangement with their manager will be noted as on strike.

18 I work night shift around these dates. Will I be expected to strike?

The BMA has successfully balloted for strike action and you will be asked to strike by them.

19 What happens if I'm on a shift when the industrial action is due to start – should I just leave?

No. As per the GMC's Good Medical Practice, you are responsible to effectively handover; effective handover is essential as part of a patient's continuity of care. This advice is also on the BMA website.

PAY AND CONTRACT IMPACTS

20 If I do go on strike what pay will I lose?

Anyone on strike on the given dates will be deducted a day's salary for example if you are to strike on 3 days in December you will be deducted 3/31. If you are to strike on 6 days in January you will be deducted 6/31.

Strike leave will be recorded as Unauthorised leave - industrial action.

21 Will the loss of pay affect future benefits?

It would if the strike day is in the period used for calculating sick pay or maternity pay benefits. The BMA will be able to confirm if they have exceptions which allow employees due to take maternity leave not to be on strike.

22 If I don't strike will I be paid if I come to work – even if I am in the BMA and a junior doctor?

Yes. All staff who work as expected on the given dates will be paid as usual whether members of the BMA or not. Pay will only be deducted from staff on strike.

23 I am not expected to be at work on the given dates, e.g. off duty day. Will I still be on strike if I am a member of the BMA?

No. It is only if you are expected to work on the given dates and do not work that you will be taking strike action and therefore not paid.

24 Will a strike break my continuity of employment with the Trust?

No. Anyone on strike will lose four days of continuous employment, but the continuity of employment is not broken.

25 What about the impact on my pension?

For all staff who strike there is a loss of pensionable pay for all hours not worked due to strike action.

26 I am a Postgraduate Doctor or Dentist with a Certificate of Sponsorship. Am I allowed to strike and what are the implications of doing so?

As you are employed by the LET as Postgraduate Doctor and Dentist in Training, you can take part in strike action as you are in the same situation as a employees not on a Certificate of Sponsorship.

As part of the UKVI Policy guidance industrial action is one of the exceptions where a sponsored worker can be absent without pay for more than 4 weeks and we as your employer would not be required to withdraw sponsorship.

27 What will happen to my progression if I take action (ARCP)?

NHS England Education (previously Health Education England) have produced some guidance on the impact of Industrial Action on Training, please see the link below.

<https://medical.hee.nhs.uk/medical-training-recruitment/medical-specialty-training/industrial-action-and-management-of-doctors-in-postgraduate-training>

PICKETING

28 Will there be pickets outside the gates of host training organisations premises?

We have not yet been informed of picketing arrangements that may be in place but expect there will be demonstrations at main sites. It should be noted that picketing is not allowed on any Trust sites.

If you are a GP trainee you must picket at or near your place of work, you are not able to picket at a place that is not considered your place of work. A GP trainee is not barred from taking part in a protest that takes place near to a hospital or other NHS building, if you are not part of a picket line you are fine to join an organised protest.

The Code of Practice on Picketing suggests that there must be no more than 6 people at each site. If you are picketing please ensure that you do not block pavements and also ensure your own safety around traffic!

Laws on picketing are complex, but we do not expect any intimidation of any staff who want to come to work.

Please ensure you comply with your host training organisation policy on picketing.

29 What happens if I don't want to cross a picket line?

Simplistically, if you do not come to work and you should be at work then you will not be paid.

If you are an employee who is eligible to take industrial action (see earlier questions) and you do not wish to cross the picket line then you will not be paid for those dates.

If you are not eligible to take industrial action (see earlier questions) then you must come to work on those dates as you do not have the legal protection to take action and are breaching your contract of employment.

30 Will there be demonstrations on the local education provider premises?

No. No demonstrations for or against the industrial action are allowed on local education provider premises. Staff demonstrating outside local education provider premises are allowed onto the premises, e.g. to use toilet facilities, but must leave any material illustrating their support for the industrial action outside the site.

31 What happens if the Industrial Strike Action is cancelled?

If the planned Industrial Strike Action is cancelled all staff will be expected at work as per their normal schedule, regardless of what time the Industrial Strike Action may be called off. No retrospective annual leave will be granted for anyone failing to turn into work on a planned Industrial Strike Action Day if it is subsequently cancelled.

GENERAL INFORMATION

On the given dates all staff at work should maintain a professional appearance, and not wear any indication of supporting or not supporting the industrial action eg. badges.

Similarly posters and placards supporting or not supporting the Action are not allowed on host training organisation premises.

Important salary deduction information

Any deductions from December and January's Industrial Action will be deducted in January's pay.

It is important if you are at work that you ensure they are aware to prevent deductions been taken in error.

LET Regional Bank

Following the judicial review, from the 10th August the prohibition contained in Regulation 7 of the Conduct of Employment Agencies Businesses Regulations 2003 (S1 2003.3319) (the "Conduct Regulations") will apply.

This means that LET Dr's will not be able to pick up shifts through the Regional Bank as we are classed as an 'Employment Business'.

Trusts will not be able to outsource shifts through the regional bank over the period of Industrial Action and LET Dr's could only work direct through a Trust bank.

We are currently working through the shifts which are already booked over this period.

