YOUR GUIDE TO INDUSTRIAL ACTION – PUBLIC HEALTH DOCTORS

ADVICE TO PUBLIC HEALTH DOCTORS TAKING INDUSTRIAL ACTION
Doctors will take industrial action for the first time in almost 40 years over major changes to the NHS pension scheme. The first day of action will take place on 21 June 2012 and doctors will provide urgent and emergency care, and non-urgent cases will be postponed. The following guidance has been prepared to support the BMA’s plans for industrial action and details how the model of action would work for public health doctors, including Directors of Public Health, consultants and registrars.

WHAT FORM OF INDUSTRIAL ACTION IS THE BMA ASKING ITS MEMBERS TO TAKE?
The BMA is asking members working in the NHS who are eligible to take action to provide ‘urgent and emergency care only’ for one or more 24-hour periods.

The type of action taken by participating doctors must be determined by the BMA. The BMA has ruled out total withdrawal of labour and resolved that members will attend their usual workplace for that day for the times they would normally attend. This means that those doctors participating in the industrial action must turn up at their workplace. A doctor who decided to stay at home (if they would normally be expected in to work on that day) would be acting outside of the scope of the official industrial action. Their action would therefore be unlawful and they could be subject to disciplinary action. Doctors being at their workplace (albeit not doing elective work) will help to assure patient safety by making certain that enough doctors are available for urgent and emergency care if needed, and will promote solidarity by providing support for the doctors who cannot take action that day because they are on call or scheduled to undertake only urgent or emergency duties. It will also allay public concern about the absence of doctors.

WHAT DOES THIS MEAN FOR A PUBLIC HEALTH DOCTOR TAKING INDUSTRIAL ACTION?
You should attend your workplace if you would have done so if the industrial action were not taking place, and at the times you would otherwise have normally been there. Those doctors who normally work from a variety of locations should attend their main workplace. Those doctors for whom working at home is at their discretion should attend their main workplace. Meetings away from the workplace should be decided upon a case-by-case basis against the urgent or emergency criteria. In all instances where a doctor will not be attending their main workplace, or where there is uncertainty as to what constitutes their main workplace, they should discuss this with their managerial lead well in advance of the day in action.

HEALTH PROTECTION WORK
Doctors working in health protection should respond to any outbreak or situation which they, or the clinical lead with responsibility, believe has the potential to cause harm if not dealt with immediately.

If you are scheduled either to be on the rota for daytime duty or on call then you should continue to provide the urgent or emergency care as normal. Those doctors who are not rostered on the day of action are therefore likely not be needed for any urgent or emergency duties. However, they should still ensure that they are able to respond to a major incident or other business continuity incident if required.

HEALTH IMPROVEMENT AND HEALTHCARE PUBLIC HEALTH WORK
Both health improvement and healthcare public health work is unlikely to be urgent and emergency. However, under the terms of the industrial action proposed by the BMA, those public health doctors who work solely within these two domains must still attend their workplace on days of action.

All public health doctors should therefore only undertake tasks that are necessary to deliver urgent and emergency patient care. All other tasks should be deferred until after the industrial action. When asked to do something that they consider not to be urgent or emergency in relation to patient care, public health doctors should refuse to do so, explaining that they are taking part in a day of action.
WHAT IS MY PROFESSIONAL RESPONSIBILITY AS A DOCTOR?
You must continue to make decisions about your actions as a doctor taking individual circumstances into account. Any decisions that you take should be informed by your lawful right to take industrial action (and thus to withhold your labour) but also by your professional responsibility as a doctor, which is not suspended by industrial action. The GMC imposes an obligation on doctors to ensure suitable patient care when they are off duty.

You may be asked to decide on priorities on any day of action. Local decisions primarily rely on the judgement and discretion of senior doctors and on whole team participation, using discretion about what constitutes urgent or emergency care. If you are in doubt about what to do, take advice from a colleague or the responsible clinical manager. Clinical leads, including non-medical Directors of Public Health, would normally take final decisions about whether a situation would or would not be considered to need an urgent or emergency response. In uncertain cases, the presumption is that you would provide the response, which the situation demands.

Planning for the day of action should have begun and all doctors should be cooperating with such planning if asked to do so. Although you are not under an obligation to inform your employer if you are taking industrial action, the BMA recommends that you respond to any questions asked by your employer (doctors or managers) about whether you personally will be taking industrial action. Patient safety is paramount and planning for the day of action will help ensure this.

WHAT IS INCLUDED IN URGENT AND EMERGENCY CARE?

1. Doctors taking industrial action must attend their usual workplace, if normally scheduled to do so, for legal reasons but this will also help to make sure that those doctors who are on call or working in the emergency department are not left carrying the whole burden of acute care.

2. Urgent and emergency care will encompass a greater range than purely emergency work, and might include any action which the responsible senior clinician believes cannot be safely postponed to another day. The key principle is patient safety. It will include a wider range of responses than would normally be provided on a bank holiday, for example, and might include any action where deferral would result in significant deterioration. Doctors should provide any response which the responsible senior clinician does not believe can be safely postponed to another day.

DEFERRING WORK – YOUR RESPONSIBILITY
As a consequence of industrial action, some work will be deferred. Your employer may be able to ask you to do extra work at a later date as a result. If such a request is made, it should be reasonable in terms of when the employer asks it to be done and the support made available by the employer. If you are in any doubt you can obtain advice from your industrial relations officer.

EMERGENCY ATTENDANCE
You should continue all such duties. During the period of action, if there is no emergency or urgent work to be done, you should make yourself available by phone or bleep if that is how you would normally be available for emergencies.

NON-ClinICAL ACTIVITIES
These do not constitute urgent or emergency care and so if you are taking part in industrial action you should not undertake them. Examples would be teaching students, training courses, clinical audit and governance, appraisal or educational supervisor meetings, research, management and administration.

Such duties may, however, be necessary for the safe continuance of clinical services on the day of action. If so you should engage and cooperate as necessary.

ADDITIONAL NHS RESPONSIBILITIES AND EXTERNAL DUTIES
There will be activities taking place on the day which may have serious long-term consequences for doctors or students if unfulfilled – for example participating in exams, interviews for specialty training recruitment, and so on. Where possible these ought to be postponed but this may not always be possible. You should use your own judgment about whether to participate in these activities or not, keeping in mind the intended goal of the industrial action being taken.

INDIVIDUAL DECISION TO PARTICIPATE
Doctors who are taking industrial action and those who are not should respect each other’s rights to do so, and there should be no coercion or pressure on colleagues in either direction.

If you feel you are coming under pressure from anyone to participate in delivering care that is clearly not urgent or emergency care, you should contact your designated local representative, who will be clearly identified on the day. The BMA will also support you in this, of course, but your local representative is better placed to intervene on the day. Collective action is best taken collectively, so make sure you know which other doctors in your department are participating and group together on the day for mutual support. Guidance for LNCs has been issued separately and they will be a key source of support and advice for those participating in any action. The BMA is working with LNCs and managers to plan for industrial action and minimise impact on patients.

UPDATED INFORMATION AND SUPPORT
The BMA website is updated frequently with advice and information. This includes a set of FAQs, which are also regularly updated. The BMA twitter feed (@theBMA) also provides alerts to new information as it happens. The BMA’s Regional Services staff and local representatives are supporting members through the period of action.
THE SEVEN GUIDING PRINCIPLES FOR PLANNING INDUSTRIAL ACTION

1. The BMA has designed a form of industrial action which is intended to ensure patient safety but which will also be effective.

2. The BMA has determined that on days when industrial action is called members will only undertake work which is urgent and/or emergency care. They will not undertake any clinical care which can safely be postponed to another day.

3. If members normally work on the day or days when action is called they must report to their workplaces as usual and be available to perform urgent and/or emergency care. Members must remain at their workplaces during their normal working hours, unless they have agreed some other arrangement with their employer (such as being on call from home).

4. The BMA’s dispute is with the government rather than directly with NHS employers, but the intention of taking industrial action is to have an impact.

5. Doctors being at their workplace will help to assure patient safety by making certain that enough doctors are available for urgent and emergency care if needed. This will also promote solidarity by providing support for the doctors who cannot take action that day because they are on call or scheduled to undertake urgent or emergency duties, and will help allay public concern about the absence of doctors.

6. Any member who does not report to his/her workplace as usual will be acting outside the scope of the action called by the BMA and runs the risk of disciplinary action or even dismissal by their employer.

7. Although members not engaged in urgent or emergency care are free to pass the time as they please (as long as they remain at their workplace and available to undertake urgent and/or emergency care if required), the BMA strongly recommends doing something which is a positive use of time, supporting colleagues or engaging in any planned activities to raise awareness of the dispute.
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